The Islamic Statement On Human Rights

The book is a systematic presentation of the Islamic teachings concerning the human rights, and, simultaneously, a critically evaluative study of the Universal Charter of Human Rights adopted by the United Nations Organization in 1948, in the light of the concerned teachings of Islam as enshrined by the Holy Qurãn and Sunnah, the only primary sources of the Islamic teachings.

Maulana Mufti Akhtar Imam Adil Qasmi
Rector
Jamia Rabbani Manorwa Sharif (Bihar)

Rendered into English from the Urdu

Md. Ibrahim Khan
M A (English) PGDTE

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Jamia Rabbani, Manorwa Sharif, Samastipur
Bihar, India -848207 Contact No.00919934082422
9473136822 e-mail:jamia.rabbani@gmail.com
www.jamiarabbani.org

Dedication

To my beloved mother and father and the venerable teachers whose good upbringing and sympathetic care enabled me undertake this humble service towards Islam. May Allah graciously accept it. *Amin*.

Akhtar Imam Adil

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The Book as Evaluated by Haz. Maulana Mufti Muhammad Zafiruddeen al-Miftahi, Mufti of Darul Uloom Deoband, and President Islamic Fiqh Academy of India

We praise Allah and invoke Allah's blessings on His Messenger the Honored.

It has nowadays become a cherished tradition to talk about the issue of the 'human rights'. The followers of every faith and the adherents to every ideology tirelessly make claim to that only their religion and ideology is sensitive towards the fundamental human rights and espouses this human cause; and only under the shade and rule of their ideology all human beings may be able to enjoy their rights in a proper manner. Since it is entirely opposed to the Divine scheme of life to deny any body else of his due rights, there was a pressing need to discuss the issue of the human rights in the Islamic perspective in a fairly detailed manner. To satisfy this need, Maulana Akhtar Imam Adil Qasmi, (Rector Jamia Rabbani, Manorwa sharif, Dist. Samastipur, Bihar, India) took a step in this direction and prepared a separate book on the issue in the light of the Islamic teachings. I had the opportunity to study the book from different places. To begin with, the learned author defines the human rights with reference to different Western writers and furnishes the history of the origin and development of the concept of human rights in the West. Then he reproduces the text of the Universal Charter of

Human Rights, prepared and adopted by the United Nations Organization. Thereafter the learned author forwards his discussion and furnishes the Islamic teachings, enshrined by the Qurãn and Sunnah, in relation to the rights of human beings. The author's discussion establishes it beyond doubt that the Islamic concept of natural human rights is far too high in comparison to those proclaimed by the United Nations' Charter. The discussion is strong and well-argued from all aspects and inclusive of all important aspects of the human rights.

As a comparative study of the human rights in the western and Islamic perspectives, the book in fact is a milestone in the area of the comparative studies in human rights. It communicates to the reader the fact how perfect and all-embracing are the teachings and laws of Islam, where no aspect of the human rights is left wanting. What is needed is to study the concerned Islamic teachings with an unprejudiced spirit, and then make endeavour to introduce the laws of Islam to the whole world. In preparing the present book, the learned author has taken great pains, and opened the mind and intellect by arguing with those Qurãnic verses and sayings of the Prophet صلی الله علیہ وسلم which we often read but pass over them without applying our intellectual faculties. The book also includes a good material about the rights of the labourers, and simultaneously reminds the men at the helm and those possessing the reins of power in political terms their responsibilities. The practical anecdotes from the blessed ages of the Holy

Prophet صلى الله عليه وسلم and of his Chaliphs and Companions add a great deal of light and grace to the body of the book. As a result, the book has become easy to understand, and its meaning and message more assimilable.

Towards the end of this evaluative note I earnestly ask Allah to honor the dear author's this work with His acceptance and make it for him a good provision for his Hereafter. I'm hopeful the readers will delight themselves with the study of the book and will feel obliged to pray Allah for the author's prosperity, both material and spiritual, in this world and in the *Akhirah*.

Now with a view to provide the English readership an access to the material of the book and also to widen its circulation, the book is being published in the English language as well.

Md. Zafiruddeen
Mufti Darul Uloom Deoband

Explaining the Subject-matter of the Book

Today the proposition of the human rights has attracted the universal attention. International brotherhood raises it time and again. Across the world there exists a number of national and international organizations and bodies which are devotedly working for the cause of human rights. Unfortunately, the phenomenon of a strong partisanship exists vis-à-vis the concept of the human rights. Europe and the West have long been projecting themselves as the only protagonists of the human rights. The partisanship turns discernible when in small countries of the world, particularly the Muslim ones, occurs something which is in the slightest opposition with the Western concept of human rights, Western media and the organizations associated with the human rights raise hues and cries in the manner as Europe is the only proctor of the human rights and the teachings of Islam have nothing to do in respect of this important issue. The West and Europe intentionally conceal the fact that Islam is the first ever standard-bearer and the strongest protagonist of human rights, whereas in the West the term 'human rights' is not older than three and a half century. In fact the present concept of human rights is an echo of the ancient concept propounded first by Zeno, the ancient Greek philosopher, and which was subsequently explained in legal and constitutional

terms by Cicero, the well known constitutionalist of ancient past.

The Concept of Human Rights

Defining the fundamental rights Gaius Ezejiofor writes:

> ‘Human rights’ or fundamental rights’ is the new term which is applied to those rights which traditionally are called ‘natural human rights’. They may be defined as that they are those moral rights which a human being enjoys all time and everywhere for the simple fact that he possesses the faculties of intellect and holds the concepts of morality and the qualities which grant him a special distinction in comparison to all other creatures. No human being could be denied these rights without brazenly trampling on the demands of justice.”[1]

Justice Jackson has explained the nature of the fundamental rights in the following words:

> ‘No life of a human being, his freedom, ownership, freedom of speech and writing, freedom of worship and assembling, or his other similar rights could by no way be offered to seek plebiscite on. The fundamental human rights never depend on the results of a public referendum.[2]

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[1] Gaiues Ezejiofor: Protection of Human Rights under the Law, Butterworths, London P. 3 1964

[2] M. SalahuDin: Bunyadi Huquq: P. 27 M.

As W. Freedman puts, in Europe the concept of human rights first developed as a reaction against the social system of the Middle Ages, and, secondly, against the despotic rule of the modern State of the seventeenth and eighteenth centuries. In sharp contrast, the concept which the religion of Islam introduced is never a result of any reaction; it of course is intended to meet the natural demands of the human beings and expresses the noble human values.

The above mentioned difference makes it clear that the nature of Western concept of human rights is defensive, largely owing to its specific historical perspective, whereas the Islamic scheme for human rights is an expression of the natural verities offered in free and absolute terms, inseparably incorporated in the constitutional structure of Islam.

Major Differences Between Islamic and the Western Concepts of Human Rights

The Islamic and the Western concepts of human rights are profoundly different from each other. Two major differences are the following:

1. So far as the western concept of human rights is concerned, in west the scope and applicability of the fundamental rights is restricted only to the relations existing between the individual and the State. The term fundamental rights' is applied to those rights which a citizen enjoys as opposed to the limitless power and authority of the State. As a result, in the west the citizen and the State are

seen as virtually opponent to each other; and the constitution of the State is more like an agreement between these two opponents. In Islam, on the other hand, the citizen and the State, far from being opponents, both stand equal and as such are bound to the pledge of loyalty towards Allah Taála, the only Supreme Sovereignty. Here both the State and the individual stand committed to fulfill the duties and obligations which they owe to Allah taála as commanded by Him. Neither the rights of the citizen need to be recognized by the State, nor the authority and powers of the men at the helm have to be recognized by the citizen.[1]

2. The second major difference between the Western and the Islamic concepts of human rights is regarding the supreme sovereign who must absolutely be obeyed by all human beings and in whose being the final authority rests. According to the European concept, the supreme sovereignty is none else than a group out of the human beings themselves. As a corollary result of this thinking the human beings are divided into two distinct classes--the ruling elite and the ruled masses. So far as the Islamic ideology is concerned, to it the supreme sovereign being the Supreme Being, Who only is the Creator and Master of the universe and the total creation, the *Rabbal*

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[1] Md. Salahud Din: Bunyadi Huquq P. 27

Samawat wal-Ardh, the Lord of the heavens and the earth. All the human beings have to obey Him and follow His Command; and as human beings all stand equal, subject to the commands of Allah on an equal footing, without a class-wise division of the rulers and the ruled. On this earthly planet the sovereignty which the man enjoys is not actual, rather the man has been vested with authority and sovereignty as the vicegerent of Allah Taála, the Supreme Being. The man in authority in fact is the vicegerent of Allah in His earth who exercises his sovereign position to enforce the commands of Allah on his fellow human beings, the slaves and servants of Allah *subhanahu wa taála.* Every rule of the Islamic State and its constitution is rooted in the Divine commands. This fact has variously been announced in the Qurãn, the Final Message of Allah to all mankind. To quote a few relevant verses here:

إ ا ُذ ٌ اال لله)يـ َعق 40(

The command is for none but Allah.[1]

ال ُ ٰ ا ُخ ِ ۡ ألَ ش لئرجس ى الله رب ا ُعلمين.

Is not for Him the Creation and Command? [2]

ٌ ْ يـ ٌ ُ ٰ شريك فى الملك، ٌ ْ يـ ٌ ُ ٰ ٌ ى ٓ ا ُز ٍ.

He has no partner in His dominion, nor He needs any to protect Him from humiliation.[1]

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[1] Al-Qurán: 12: 40

[2] Al-Qurãn Bani Israil: 111

ولارذع غ الله ابيً آخش، لاا الا ، شئ بي الا ج .،

And call not, besides Allah, on another god. There is no god but He. Everything is bound to perish except His Face.[2]

بّ كى اغم د بكى الأرض نبشؤ بما نب رذنطش.

To Him belongs what is in the heavens and on earth, and all between them, and all beneath the soil.[3]

To apprise the man of his position in the scheme of the Divine kingdom the Qurãn says:

انبأضب اؤزبة ثب ذن زذ ث٤ اب طثمأساى الله.

"We have sent down to you the Book in Truth, that you might judge between people, as guided by Allah."[4]

كذ الله اذين آ ا كمِ اص ذذ ٤ غخل .كى
الأرض ما اغخ ق اذين جِ . ٤مكنن . دي . اذي ارعب .
نجذ . بكذ خك . آبّ.

Terrible Mistake of West

The terrible mistake which the west made in relation to the formulation of the constitution and legislation that it altered the position of the supreme sovereign. Man, however learned and informed of the peoples, and individuals' collective and private psychologies he is, however pious sentiments and feelings he holds, and exercises his legistive acumen

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1 Al-Qurán: 17 : 111

2 Al-Qurán: 38: 88

3 Al-Qurán: 20: 6

4 Al-Qurán:4: 105

with dispassionateness, his legislations will invariably bear the mark of his personal, racial, hereditary or national inclinations. To put it more precisely, with his limited knowledge and study and innate impressionability of his intellect and temperament can never do complete justice to all the classes of human beings. This is the task of only Allah, the All-Powerful, Aware of all things, Free from all types of sentiments, feelings, and above all human limitations and weaknesses, the One Who loves each and every servant of His.

The Concept of Human Rights in the West: Historical Perspective

Before we embark upon the study of the Law of Islam it seems befitting here to cast a look on the historical perspective of the western concept of human rights. For this purpose the author of the present treatise has leavily drawn upon *Bunyadi Huquq* (fundamental rights) authored by Late S. Salahud-Din (of Pakistan). The late author has put a brief and comprehensive account of it in his book. Excerpt follows:

> "The Struggle for the fundamental human rights dates back to the eleventh century Britain, where, in 1037 C.E. the Conred 11 issued a charter in order to determine the powers and authority of the British Parliament. In the wake of the said charter the Parliament embarked upon the efforts to enhance its powers and authority. Later, in 1188, the legal principle

habeas corpus got the sanction of the King Alfons IX. In June 15, 1215 C.E the Megna Carta was issued, which was termed as the Charter of Freedom. Much as the Megna Carta was a very important historic document towards the fundamental human rights in Britain, yet the purport of the fundamental human rights from the document could be drawn up only later. Initially, the document was not more than an instrument to safeguard the interests of the Barons. It had nothing to do with the rights of the unprivileged masses. To use the comment of Mr. Henry Marsh, "The Megna Carta did not exceed to be a charter meant for safeguarding exclusively the rights of the major landlords.[1]

In 1355 the British Parliament ratified the Megna Carta and sanctioned the legal provision of Due Process of Law. This meant that no person could be dispossessed from his property, imprisoned or put to death without undergoing the due process of law.

From the fourteenth century till the sixteenth one Europe largely remained under the ideological dominance of Machiavelli.[2] His ideology did nothing except strengthening the despotism. He advocated for more and more authority and powers for the kings

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[1] Henry Marsh "Documents of Liberty" David & Charies, New Town Abbot, England (1971) P. 51

[2] This refers to Niccolo' Machiavelli (1469-1527), an Italian politician. In his book 'The Prince' he explained that it was often necessary for the rulers to use immoral methods in order to achieve power and success.

and the despotic rulers and rendered the grabbing of the reins of power to be the only end of life. The concept of the natural human rights resurfaced itself again during the seventeenth century. In 1679 the British Parliament sanctioned the law of *habeas corpus*, which provided the unprivileged masses the legal protection against their arbitrary arrest. In 1684 the Revolutionary Army determined the limits and scope of the powers and authority of the British Parliament. In 1689, the British Parliament granted its sanction to the Bill of Rights, a very important document in the history of the British constitutionalism. In the words of Acton, "the Bill of Rights and its sanction by the British Parliament is the greatest feat the English ever achieved." It was regarded that the sanction of the Bill marked the completion of the movement for Freedom in British as it lucidly defined the fundamental human rights. To justify the Revolution of 1688-89 John Locke wrote his book 'Treaties on Civil Governments in 1690. Through this book the author expounded the theory of Social Contract and strongly argued for the rights of the individual. In 1762 the noted French thinker 'Rousseau, authored his book named 'Social Contract' in which he examined the theory of the Social Contract expounded by Hobbes and John Locke. Through this historic book he tried to harmonies the chief sovereign of Hobbes with the democracy of Locke. The Roussean ideas not just levelled the ground for the French Revolution, but also influenced profoundly the political thinking of the entire Europe and played a very important role in

getting sanctioned the individual human rights in relation to the State. In 1776 from Virginia, an American State, the charter of the rights, written by George Marson, was issued which provided protection to the freedom of press, religion and the legal remedies. In July 12, 1776 the announcement of America's freedom was issued. The manuscript of the announcement was written by Thomas Jefferson, chiefly premised on the ideologies and concepts of the English philosophers, particularly those of John Locke. Referring to the concept of the Law of Nature, the preamble of the Announcement read: All human beings are born alike; their Creator has blessed them with inalienable rights. Those rights include the protection of life, freedom, and of seeking pleasure and enjoyment." Three years after the promulgation of the Constitution, in 1789, the American Congress sanctioned the Ten Amendments, known as the Law of Rights. In the same year the National Assembly of France sanctioned the Charter of the Rights of Man. In 1792, Thomas Paine published his famous booklet 'The Rights of Man', which deeply influenced the western thinking and furthered the struggle for the protection of the human rights. In the nineteenth and twentieth centuries the inclusion of the human rights in the constitutions became a general tradition which was followed by almost all countries. In 1868 the American constitution was subjected to the Fourteenth Amendment, which stated that no American State would have the right to divest any citizen of his freedom, possessions and his life, nor to

decline to provide him the legal protection on an equal footing with other fellow citizens unless a proper legal procedure is followed.

After the World War 1, German and many other European countries incorporated the fundamental rights in their constitutions. In 1940, H.G. Wells, a well-known litterateur, wrote his book, 'New World Order'. Through this book he proposed the introduction of a charter of human rights. In January, 1941 the President Roosevelt urged the congress to lend its support to 'four freedoms'. In 1941 the Atlantic Charter was signed, which was intended to put an end to war with the adoption of the natural human rights.

In the wake of the World War 11 the inclusion of the fundamental rights in the written constitutions became a general tradition. In its constitution of 1946 Italy ensured the human rights by including them to the constitution.

Finally, as an outcome of the collective efforts made on national and intentional levels for the cause of the human rights, the United Nations Organization adopted Charter of Human Rights. This Charter duly incorporated all the rights existing in various European constitutions and those which might have been conceived of by the human mind. At the time of voting in the General Assembly there were 48 for, with eight abstentions. The absentees included Russia. With a view to assess the condition of observance of the Charter, to protect them and to propose and determine new rights and submit its

recommendations and propositions in this respect a permanent commission for the Human Rights was also constituted.

In the following lines we are going to reproduce the text of the Charter of the Fundamental Human Rights proclaimed by the United Nations Organization and adopted by it in 1948, the pinnacle of the human intellectual enterprise, and which perhaps is the most important document to make us have a proper assessment of the natural limitations of the human intellect even though applied collectively without the light of the Divine Guidance.

Text of the Universal Declaration of Fundamental Human Rights

Article 1.

All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2.

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social, origin, property, shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belong, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 3.

- Everyone has the right to life, liberty and security of person.

Article 4.

- No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms.

Article 5.

- No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment.

Article 6.

- Everyone has the right to recognition everywhere as a person before the law.

Article 7.

- All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation to this Declaration and against any incitement to such discrimination.

Article 8.

- Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article9.

- No one shall be subjected to arbitrary arrest, detention or exile.

Article 10.

- Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his

rights and obligations and of any criminal charge against him.

Article 11.

- (1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.
- (2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence, under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Article 12.

- No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Article 13.

- (1) Everyone has the right to freedom of movement and residence within the borders of each state.

- (2) Everyone has the right to leave any country, including his own, and to return to his country.

Article 14.

- (1) Everyone has the right to seek and to enjoy in other countries asylum from persecution.
- (2) This right may not be invoked in the case of prosecutions genuinely arising from non-political crimes or from acts contrary to the purposes and principles of the United Nations.

Article 15.

- (1) Everyone has the right to a nationality.
- (2) No one shall be arbitrarily derived of his nationality nor denied the right to change his nationality.

Article 16.

- (1) Men and women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.
- (2) Marriage shall be entered into only with the free and full consent of the intending spouses.
- (3) The family is the natural and fundamental group unit of society and is entitled to protection by society and the State.

Article 17.

- (1) Everyone has the right to own properly alone as well as in association with others.

- (2) No one shall be arbitrarily deprived of his property.

Article 18.

- Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

Article 19.

- Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas through any media and regardless of frontiers.

Article 20.

- (1) Everyone has the right to freedom of peaceful assembly and assoeiation.
- (2) No one may be compelled to belong to an association.

Article 21.

- (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- (2) Everyone has the right of equal access to public service in his country.

- (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent voting procedures.

Article 22.

- Everyone, as a member of society, has the right to social security and is entitled to realization, through national effort and international co-operation and in accordance with the organization and resources of each State, of the economic, social and cultural rights indispensable for his dignity and the free development of this personality.

Article 23.

- (1) Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.
- (2) Everyone, without any discrimination, has the right to equal pay for equal work.
- (3) Everyone who woks has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- (4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24.

- Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

Article 25.

- (1) Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.
- (2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Article 26.

- (1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.
- (2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and to the strengthening of respect for human

rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

- (3) Parents have a prior right to choose the king of education that shall be given to their children.

Article 27.

- (1) Everyone has the right freely to participate in the cultural life of the community, to enjoy the arts and to share in scientific advancement and its benefits.
- (2) Everyone has the right to the protection of the moral and material interests resulting form any scientific, literary or artistic production of which he is the author.

Article 28.

- Everyone is entitled to a social and international order in which the rights and freedoms set forth in this Declaration can be fully realized.

Article 29.

- (1) Everyone has duties to the community in which alone the free and full development of his personality is possible.
- (2) In the exercise of his rights and freedoms, everyone shall be subject only to such

limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society.

- (3) These rights and freedoms may in no case be exercised contrary to the purposes and principles of the United Nations.

Article 30.

- Nothing in this Declaration may be interpreted as implying for any State, group or person any right to engage in any activity or to perform any act aimed at the destruction of any of the rights and freedoms set forth herein.

The liberties and rights set out by the Universal Charter were subsequently divided into two groups; while the first group combines the economic, social and cultural rights, the second one includes the civic and political rights. In 1966, the General Assembly sanctioned both the groups of the covenant, and left it to the discretion of the member States to voluntarily recognize these rights and liberties and affirm it by signing the covenants.

The United Nations Organization's Commission For Human Rights has worked further in this regard. For the protection of the children's rights, and for the eradication of the racial discrimination issued declarations in 1959 and in 1963 respectively. As to

the General Assembly of the United Nations Organization, it passed various resolutions and sanctioned a number of covenants in the same direction. To be precise, in 1948 it made a proclamation to check the genocide; in 1951 for the protection of the Migrants as well as for the Exiles, in 1952 for the Women's Political Rights, in 1957 for the determination of the nationalities of the married women; in 1951 for the Eradication of Servitude; and in 1965 for the denunciation of the Racial Discrimination in South Africa. In addition, it lent its sanction to various covenants and passed a number of resolutions.

The United Nations Organization's special institutions, within the ambit of their authority, have worked to further the cause of human rights. Notably, the International Labour Organization, the UNESCO, the I. R. O and the U. N High Commission for the Migrants have contributed very much to the overall struggle for the human rights.[1]

Universal Charter still Wanting and Incomplete

This being the world's latest charter of the human rights, which has been prepared by all the nations of the world in the light of the world's Revealed, Unrevealed, regional and national constitutions and laws, and which took its final shape over a half century earlier from now. But, strangely

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[1] Bunyadi Huquq P. 86

enough, as far as the significance, enforcement and the scope of its operation are concerned, it continues to be seriously wanting. This is a general feeling shared equally by the Western and Eastern philosophers and thinkers. In 1970 a Western thinker, Rebert E. Dewey, expressed his concern in the following words:

> "Almost two hundred years earlier, at the juncture of the revolutionary tumultuous conditions, which hardly differed from those of modern times, Thomas Paine, had apprised his contemporaries of a bitter truth in the following words:
>
> "Freedom is running round the world; capture this runaway and prepare a permanent asylum for humanity. In spite of countless announcements, charters and the long sweet talks, liberty is evading. Whether it is America or Russia, Portugal or Angola, Britain or Rhodesia, Boston or Mississippi, the freedom exists nowhere."[1]

About the rights and liberties set out by the so-called Universal Declaration of Human Rights the following comment of Hans Kelson is noteworthy:

> "Seeing from a purely legal viewpoint, the articles of the Universal Charter place no State under legal obligation to provide protection to the liberties and human rights set out by the text

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[1] Dewey Robert E. "Freedom" The Macmillon Company, (1970) P. 347

> of the Declaration, or expressed in the preamble thereof. The language and text of this Charter has no room to be purported that the member-States stand legally bound to provide the liberties and the human rights to their citizens."[1]

About what the Universal Charter has granted the common man Karl Mannheim says:

> "This Charter gives no man the legal right to appeal to the International Court of Justice or to the United Nations Supreme Court of Justice in the event of infringement upon his rights and liberties bestowed upon him by the Charter. The Article 34 clearly expresses that before the International Court of Justice only the States could appear as parties."[2]

On the economic and social rights set out by the Charter, Dr Raphael has observed as follows:

> "These so-called economic and social rights create no international obligation. These are the rights which involve the giving out of some things, such as reasonable income, educational and social services. But who is the addressee of such obligations, and whom this duty is related to? The authors of the United Nations Charter of human rights say that every individual constituent of the human society shall be

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[1] Hans Kelson: The Law of United Nations, London, 1950 P. 29

[2] Karl Mannheim: Diagonsis of Our Time, London 1947 P.15

provided a full social protection. But what does it mean? Does it mean that every individual ahould make some contribution to the universal system of protection from which the individual may benefit when he needs? If this being the purport of their this saying, why those covenants which are meant to implement the Charter do not have an article to formulate such a mechanism? If there exists no such a mechanism, then from where arises the question of obligation and the legal rights? Obliging the people to do something which is beyond their possibility is nothing but an absurdity. Still, this folly is not so wrongful as that of granting the people such rights which by no way are to be benefited from."[1]

Following is the observation of late Mr A.K. Brohi, a man of exceptional insights in constitutionalism.

"The rights set out by the covenant of economic and social rights, as a matter of fact, are by no means the rights according to the recognized meaning of the term. They are merely the principles of social and economic policies; and the same fact accidentally gives the reason why

[1] Political Theory and the Rights of Man: Raphael D. D, Indiana University Press. Bloomington, 1967, P. 96

the Commission had to prepare two separate and distinct covenants."[1]

The comments and the observations furnished above make it abundantly clear that even the collective efforts made on international level by man could not ensure a life of peace and dignity for human beings. To quote an observer:

"The Charter of human rights is not more than a charming document. It has a list of the rights, yet no right has behind it an enforcing power."[2]

Islamic Charter of Human Rights: An Unchallengeably Perfect Charter

In striking contrast to the Charter of Human Rights adopted by the United Nations Organization, the Islamic Charter of human rights is an unfailingly perfect and successful one, having at its back the Supreme Being as enforcing power, Who keeps a round the clock vigil at man, and watches him in all the spheres of his life; and is fully aware of all his deeds done overtly or covertly.

The natural rights which Islam has bestowed upon all human beings are perfectly comprehensive and highly meaningful. In them a fuller care has been given to human psyche, inclinations and tendencies,

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[1] Brohi A. K. United Nations and the Human Rights (1968) P. 44

[2] S. Salauddin: Bunyadi Huquq P. 89 (M M I Publishers, New Delhi 1989)

to the satisfaction of man's natural needs and requirements. No article of the Islamic natural rights may be dismissed under the excuse that it shows undue partiality to one class of people and harmful towards others. Islam treats all the human beings with complete equality and justice. The fact that the Islamic constitution has accorded some priorities to the Muslims can not be denied, yet by no way Islam's so doing could be held as injustice towards the non-Muslims. Those priorities and additional rights are quite reasonable and natural. They are never at the cost of the rights of the non-Muslims. According to all the norms of justice the disloyals to an ideology, to its set of beliefs and the moral principles can never be treated on an equal footing with those who believe in that ideology, in its set of beliefs and its principles of morality. Precedences of this type, and arrangements of the kind, are abundantly found in all the constitutions and legislations available in the world. According to the same dictate of justice Islam grants its adherents such special rights which they deserve as obedient and loyal to it and as the enforcing agents of this law on the Supreme Authority's behalf. As far as other religious entities living under the rule of Islam are concerned, no article of the law of Islam subjects them to any kind of unjustness. Similarly, the law of Islam does not deny any fundamental natural rights to those who wish to peacefully live under the rule of Islam without acknowledging its truth. How much the law of Islam is concerned about the fundamental human rights reflects well from the

following *hadhith* of the Holy Prophet صلى الله عليه وسلم which speaks of the concerns of the law of Islam towards the due rights of the *Zimmis*.

ألا ظلم كب ذاً أ ازوص أ ل ك م غو أ أخز
شوبث ش ع ت ل ع كوب دج ذ ي اوم.

> Behold! If a person subjected any *muáhid* to any kind of wrong, or lessened his rights and dues; or burdened him beyond his capacity, or snatched any thing from him against his consent, I myself will prosecute against such a person on the Day of Judgment."[1]

This undeniably is the standard of surety of their rights above which is not conceivable. Perhaps no such a forceful enunciation has been made by the Prophet of Islam even about the rights of the Muslims.

Islam is strongly opposed to any policy meant for denying the non-Muslim minority groups living under its just rule their due natural rights. It has bestowed upon the non-Muslim minority groups the highly comprehensive rights. History bears testimony to the fact that the Muslim State always offered an unprecedented protection to those rights. The magnificent practice of the Muslim rulers and the men at the helm has, over all ages, been quite matchless and continues to be so even today. The present developed countries are unable to furnish even a single precedent of the high standard in this regard.

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[1] Mishkat Mirqat on 8/89

Acknowledging the same fact, Montgomery Watt, a very noted orientalist of the foregoing century, writes:

> "So far as the behviour towards the non-Muslim minority groups is concerned, the Muslim State, in all, possesses an excellent record. Towards the non-Muslim minority groups a good behaviour was regarded a matter of honor and pride. During the days of the *Khulafai Rashidin* the protection of the *dhimmis* was the chief concern of the Islamic State. All non-Muslim minority groups had to make the payment of *jizya* yearly, in cash or in the form of other materials, according to the agreement concluded, plus a per capita tax almost same the amount and value of *jizya.* In exchange, the minorities got a fuller protection against the outside enemies and the internal criminals on an equal footing with the Muslims themselves.
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> As for the minorities' internal affairs and their personal laws, each minority group enjoyed full autonomy.
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> All the agreements concluded during the age of the Prophet clearly state that each and every *dhimmi* minority would enjoy a full freedom in matters of its religion and the religious practices. The same freedom was upheld during the succeeding ages."[1]

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[1] Bunyadi Huquq P. 179 with reference to 'The Majesty That Was Islam' by Montgomery Watt W. P. 47

Through the natural bond of humanity the majority and minority groups living within the borders of the State of Islam are subject to the law of Islam on an equal footing. While the State of Islam is legally bound to enforce those human rights and protect them against possible sorts of violation, an Un-Islamic State takes it only as its moral duty. The inevitable result is that the latter State can hardly provide the legal protection to those rights and liberties.

In the following lines we are going to briefly study the Islamic law in relation to the natural human rights. This study will make us have a proper assessment of the rights of human beings, and the legal safeguards it offers to protect those rights against trespasses and violation. With reference to the natural human rights the law of Islam maintains no difference between the majority and minority sections living under the rule of the Islamic Law. The natural human rights are shared by all human beings on an equal footing. The point where the West has reached now Islam had already got to an incomparably better destination over hundreds of years ago. There exists no article in the Universal Charter of human rights which does not find mention in the Islamic Charter. By contrast, the Islamic Charter of human rights contains a number of articles which are found nowhere in the Universal Charter.

This speaks well of the fact that, despite constant endeavors, the Universal Charter, a man-made one, is still wanting; whereas the Islamic

Charter is perfectly complete since its first day of coming into being. Its comprehensiveness and significance shall remain equally unchanged till the Last Day of the world.

Right to Equality

Islam is the first to introduce the concept of equality with relation to all members of the whole human race, and proclaimed that all human being are equal with no differences between them inasmuch as they are human beings. By this historic proclamation Islam removed all differences that had gained deep ground on the basis of race, caste, language, colour and similar other grounds. Differences of tribes and fraternities are meant only for the purpose of introduction and identity. To the ideology of Islam such differences could by no way provide legitimate reasons for pride and nobility. The nobility yardstic being the fear of Allah and one's pious character. To quote the Qurán:

ﯿ أيب ابّ ط لبً خوبّ ً ْ َ رشّ ظُأّى ٌجبِ ً ْشكٌبثبً ٌجئ َ
بكٌسك ٍ ، إ أشً ّ كّ ذ اللهوأب ً ْ.

> O mankind! We created you from a single (pair) of a male and female, and made you into nations and tribes, so that you may know each other. The most honored in the sight of Allah is he who is the most righteous of you.[1]

The same important principle was forcefully proclaimed by the Holy Prophet صلى الله عليه وسلم on the

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[1] Al-Qurãn: 49: 13

historic occasion of the *Hajjatul widaa* (Last Pilgrimage):

لا فضل لعربي على عجمي، ولا لعجمي على عربي، ألا ط
كبي أع د ولا لأسود على أحمر إلا بالتقوى، كلكم من آدم وآدم
من تراب. (رواه مسلم)

> "No Arabs has a degree of preference over a non-Arabs, nor the non-Arabs enjoy a degree of preference over the Arab. Nor a white, likewise, has a degree of preference over a black nor the latter has a degree of preference over the former except by way of *taqwa* (fear of Allah). All of you are born out of Adam; and Adam was created out of the clay". [1]

The concept of equality of all human beings is not mere an ideology; it remained a practice throughout the Islamic rule.

Countless examples may be cited from the history to substantiate this claim. Those examples will tell us that the Islamic principle of human equality was strictly maintained between the rich and the poor, the master and the slave, the ruler and the ruled, the Muslim and the non-Muslim in matters of justice, human natural rights and other matters. The Holy Prophet صلى الله عليه وسلم claimed no degree of preference over other Muslims in matter of justice and human rights. Take for example the matter of theft of a woman named Fatima daughter of ………… The said woman was brought to the court of justice of the

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[1] Bukhari & Muslim

Prophet صلى الله عليه وسلم of Allah as an accused of theft. Since the accused lady belonged to a noble family; Haz. Usama B. Zaid, رضي الله عنهما , a young Companion, who enjoyed position with the Holy Prophet صلى الله عليه وسلم, interceded her with the Holy Prophet صلى الله عليه وسلم. Usama's this doing angered the Holy Prophet in the extreme. He ordered Haz. Bilal رضي الله عنه to give a call to people to hurry up to the Prophet صلى الله عليه وسلم's Masjid to listen to his following word of admonition:

امب ي اذين قج ا . ب ا لرا غم لك . شلشرق رش ،
لرا غم لك . ا عجق أهب ا ك ا ذذ، أ هلل ا إ لكب غمخث ذ
ذمذ غه ذ وطپ ذ يذب،) زلن ك (

"What (chiefly) contributed to the destruction of the people before you was that they subjected to the law the guilty of theft only was of a lower position, but they did not bring the law into action if the guilty of theft belonged to a noble family. By Allah had Fatima daughter of Muhammad committed the theft, I would have cut her hand".[1]

During the reign of the Second Caliph, Haz. Umar b. al-Khattab رضى الله عنه Jabillah b. Ayham al-Ghassani, a Christian convert to Islam and a man of higher position, slapped a bedion during the course of Hajj. When the matter was reported to the Caliph, the Ghassani argued as follows to evade the law of equality: "Amirul Muminin! How it to subject me to the law of equality! I'm a king while the other party is

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[1] Bukhari & Muslim

a man of a lower status". The Caliph رضی اللہ ؓ dismissed his conceitful argument by saying:

"Islam has made you and him equal. Now you can claim a degree of preference over him only by way of the increased fear of Allah and the purity of heart and charactor".

Haz. Umar the Second Caliph subjected his governors to the rule of law and the Islamic principle of equality before the law and thus set the highest standard of law in such an unflinching way that the example of which could hardly be found throughout the whole human history. The governors against whom the punishments were administered are more in number than one. To name them, Abu Musa al-Asháry, Abdullah bin Amr bin al-Ass, Abdullah bin Fart the Governor of Hams, Qudama bin Mazun the Governor of Bahrain. The Caliph unleashed the whip of the law even against his own son Abdul Rahman bin Umar.[1]

It is these Islamic teachings and their indiscriminate implementation which accorded a complete equality before the law to all the people living under the political rule of Islam. As regards the social status of the people, there is nothing except the fear of Allah and piety to be regarded as a standard for the claim of preference. The Islamic law declared invalid all the claims of preference over each other on grounds like religion, race, caste or the place of birth. The Universal Declaration of Human Rights too

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[1] Al-Faruq 2/68

admits this fundamental human right. To reproduce here the relevant articles:

Article 1.

> All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood.

Article 2.

> Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinions, national or social, origin, property, shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

Article 7.

> All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation to this Declaration and against any incitement to such discrimination.

These articles of the Universal Declaration are wanting in a basis of legitimate claim of preference between the people. Quite naturally, no human

society is without such a basis of preference. The Islamic declaration of human equality has fully incorporated a basis of the claim of preference. That is, piety and the fear of Allah. In other words, a more pious and Allah-fearing does enjoy a degree of preference over a person lacking in this precious quality.

Right to Safety

In the structure of the Islamic law to the person and life of each and every human being much respect and sanctity has been accorded. A few relevant verses of the Holy Quran are being cited here:

الروز ِ أ اُلّ ظ ازُى حرم الله إلا با ُذن بِ ّىاعشل ٤ َ)

"And take not a life which Allah has declared sacred except for just".[1]

According to the teachings of the Quran, unjust killing of a single human being amounts to killing all the human beings. Having declared so in the Holy Quran, Islam has attached extraordinary importance to the life of every human being. No law of a religion, moral code or the literature on law and philosophies can offer a precedent of the kind. To quote the words of the Qurãn:

َ ِ و َ لّغثً مٌس لّ ظ أ كغلكى الأسضك ّوُّب و َ ابّ ط جمٌِب، ً ُ ْ َ ِ أ هب بـٌك ّوُّب أ هب ابّ ط جمٌِبً.)اُمائذ َ 32(

If any one slew a person-unless it be for murder or for spreading mischief in the land-it would be

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[1] Al-Qurãn: (17: 33)

as if he slew all the people. And if any one saved a life, it would be as if he saved the life of all people.[1]

Under no set of circumstance, how moving they may be, Islam permits to take the life of a human being. Nobody is allowed to take even the life of his children for the fear of starvation, or for any other excuse, his rights on his children notwithstanding. Against the killing of the type the Holy Quran has issued the following prohibitive command:

الروزِ ًا أ الد ً ۡ خشۡيَةَ ا الم، شۡصه . ۡ إيا ً ۡ ، إ فِ ۡ .
بً ۚ خطِئً كَبِيراً.

Kill not your children for fear of want; We shall provide sustenance for them as well as for you. Verily the killing of them is a major sin.[2]

During the age of pagan ignorance the female children were commonly buried alive. Regarding this inhuman practice Allah *Tãala* wrathfully reminded them of the calling to account on the Day of Judgment in the following words:

ۡرا اُم ً إح عِۚ ذِ ذ شأي رتۡ ف ذِ.

When the female (infant), buried alive, shall be questioned, for what guilt she was killed.[3]

Nobody is allowed even to take his own life. The Qurãn says: kill not your own selves.

ۡلارو زاً ألّ عّ ،ا ً ب ث ۡ س ئما) لُقبء([4]

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1 Al-Qurãn: 5: 32.

2 Al-Qurãn: 17/31

3 Al-Qurãn: 81: 8, 9

4 Al-Qurãn: 4: 29

And kill not yourselves, for verily Allah is Merciful to you.[1]

In this regard the Islamic law draws no line of discrimination between the people on grounds like majority or minority or caste and creed. To quote a relevant saying of the Holy Prophet صلى الله كـِ ˇ عْ ِ here:

"He who killed a *muáhid,* Allah *tàala* shall outlaw Paradise for such a person.[2]

Another saying of the Holy Prophet صلى الله كـِ ˇ عْ ِ says:

"He who killed a non-Muslim *muáhid,* shall never smell the ardour of Paradise".[3]

Notably, all the laws in operation in the world grant the right to the safety of life only after the birth of the child. The Islamic law, on the other hand, grants this natural right ever since the inception of the pregnancy. The Holy Prophet صلى الله كـِ ˇ عْ ِ established this by not administering the *hadd* of adultery to a pregnant woman found guilty of adultery even after her repeated and categorical confession of her guilt. It was because she was pregnant. The specified punishment could be administered to her only after the birth took place and the baby completed the fosterage[4]

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1 Al-Qurãn: 4: 29

2 Nasai

3 Bukhari .

4 Mishkat on Mirqat 7/224

Were the *hadd* of adultery was administered immediately after her confession, the child developing in her womb too had suffered an undue death. The Prophet صلى الله عليه وسلم's this practice established a yet another point of law. That is, the life of illegitimate child too is as much sacred as that of the legimate one. According to the expressions of the *Fuqaha,* this right, in the case of the child still in womb becomes available after four months counted from the first day of the inception of pregnancy. It is because of the biological fact that during the span of four months an embryo starts taking shape of human being, fit to be called a human being.

The afore-mentioned view of our Fuqaha has lately been accredited by the modern medical science. In a well-known case the American Supreme Court issued the verdict, basing it purely on modern medical researches, that a human embryo of three months, taking from the day of inception of pregnancy, shall be legally counted for a human entity.[1]

The United Nations' Universal Declaration too enshrines more than one articles to enunciate the right to the protection of life. But, unfortunately, those articles fall short to cover all important aspects of the protection of life. Articles 3, 25/2 state this fundamental right. To reproduce them here:

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[1] United States Supreme Court Reports vide October 1972 pub. Lawyers Co-operative Company, New York, 1974: P.147.

Article 3

Everyone has the right to life, liberty and security of person.

Article 25

(2) Motherhood and childhood are entitled to special care and assistance. All children, whether born in or out of wedlock, shall enjoy the same social protection.

Right to the Protection of one's Personal Property and Belongings

Islam guarantees a fuller protection to one's properties and belongings that are legitimately acquired and are free of all *shariah* obligations as well as of the proper dues of the State. Such properties and belongings are provided an unfailing protection against the public or the State violation. The owner of such properties and belongings shall enjoy the following rights:

1. To freely use and utilize it,
2. To invest it for legal and legitimate purposes,
3. To transfer one's ownership and proprietary rights to other person (s);
4. To protect one's properties and posseons, by taking appropriate steps.

Outlawing all sorts of illegal utilization, taking illegal possession of the properties and belongings of other people, the Holy Qurãn has issued the following prohibition:

ال رؤ ٍ ِ ٱ أ َ ٱ ُ ٗ ٹۃ ٗ ٹٹ ب ﭽ غ َ ﭼ ۇشج 188(

And do not eat up your property among yourselves for vanities.[1]

In case the State has no option other than taking possession of one's personal property for a collective social good, it can dispossess the owner only by his due consent and in exchange of a reasonable price. The Holy Prophet himself paid due price to the orphan children who owned the piece of land on which was built the Prophet's صلى الله ﷺ masjid, and refused to accept their offer of the land without a price. The Prophet صلى الله ﷺ sought assessment of the price of land from the people and started the construction work of the masjid only after the payment of price was made according to the current rates.[2]

On the critical occasion of the Taif expedition the Holy Prophet صلى الله ﷺ borrowed a number of amours from Safwan bin Ummayya. He asked the Prophet صلى الله ﷺ : Are you going to usurp them"? ' Never' this is a contract of borrowing. In case of loss of any item, due compensation shall be made".[3]

Qazi Abu Yusuf writes in his monumental book al-Kharaj:

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[1] Al-Qurãn: 2: 188

[2] Seeratul Mustafa.

[3] Seertul Mustafa Vol. 2

"The Imam has no right to take a thing out of the possesstion of any person without an established legal right."[1]

By the following *hadith* we may have an assessment of the importance of this right:

ٍَفو َد ٍْبٌّك .ٌّش ؤذ.

One who is killed in protecting his property certainly suffered a martyr's death.[2]

The Universal Declaration too recognizes this right.

Article 17 is the expression of it:

Article 17

1) Everyone has the right to own property alone as well as in association with others.
2) No one shall be arbitrarily deprived of his property.

Right to Protect One's Honor and Dignity

As a citizen of the Islamic State every person is entitled to protect his/her honour, dignity and modesty. No person has a right to violate other person's honour and dignity, or do anything to harm other person's social status. To the Law of Islam, doing so will constitute a grave crime. Considering the extraordinary importance of this right, the Prophet of Islam, in his historic address of the Last Pilgrimage, issued very important directives in this regard. The Holy Qurãn says:

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[1] Al-Kharaj, P. 367

[2] Mishkat on Mirqat P. 7/99

يي أيب ازيد آ ا لايغخره ه كغى أ يد ا خيراً
. ، لا غء غءكغى أ يد خيراً . ، لارض ألغ
رنبلثض لثألوبة۔

O you who believe! Let not some men among you laugh at other: it may be that the (latter) are better than the (former). Nor let some women laugh at others: it may be that latter are better than the (former). Nor defame nor be sarcastic to each other. Nor call each other by (offensive) nicknames.[1]

Expressing his extreme disapproval of dishonouring a human person, the Prophet of Islam has said:

"The worst type of transgression is to dishonour a Muslim without a legitimate."[2]

Once a wronged approached the Amirul Muminin Umar رضى الله عنہ and made a petition against somebody who had beaten him badly. The wronged was weeping uncontrollably. To attract the attention of the Amirul Muminin رضى الله عنہ he offered his petition in the following heart-rending words: O Amirul Muminin! I have come to you to seek refuge against the wrong I'm being targeted to". Learnt this, the Amirul Muminin Umar رضى الله عنہ's eyes turned red in anger. He reacted, "Be satisfied, you are under

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[1] Al-Qurãn: 49: 11

[2] Abu Dawud

protection". That is, you have come to a person who will protect you. At Haz. Umar's question he explained his case as:

"A race competition was held between me and a son of Haz. Amr bin al-As. I triumphed over him. Having lost the competition, he started striking me with his lash saying: I'm the son of *akremain* (two respected persons)".

The Amirul Muminin س ظی الله عˇ˙ wrote Haz. Amr bin As, the Governor of Egypt under Haz. Umar س ظی الله عˇ˙, to appear before the Amirul Muminin س ظی الله عˇ˙ in Madinah Munawwarah with his son against whom the petition was made. Haz. Amr bin al-As س ظی الله ڻˇ˙ accordingly, appeared with his son. Haz. Umarس ظی الله عˇ˙called the Egyptian complainant. He appeared trembling. Haz. Umar س ظی الله عˇ˙ gave him a whip and ordered him to hit the son of Haz. Amr bin As. The wronged started hitting the wrong-doer son of the governor who was tied up with a tree standing beside the wronged Egyptian. Haz. Umar was continuely encouraging him to beat the son of the two respectable person. Haz. Anasس ظی الله عˇ˙, an eye witness of the event, says:

"By Allah! The Egyptian was beating him and we liked it. He kept beating him till we wished the stopping of the beating". Then Haz. Umarس ظی الله عˇ˙ asked the Egyptian to beat Haz.

Amr bin al-As with the lash. But the Egyptian refused, saying. It was only his son, who beat me with whom I have just settled my scores". Then Haz. Umar س ظی الله ع ˇˇ addressed Amr with the following very important and historic sentence:

"Since when have you enslaved the people despite the fact that they were born free". Haz. Amr bin As bowed his head in submission and said: Amirul Muminin! By Allah, I had no knowledge of the event, nor the wronged approached me to seek a redressal".[1]

During the era of Haz. Umar al- Farooq سضی الله ڭˇˇ some unfortunate events took place, which prompted the dishonoured persons to claim the lives of transgressing men. The matters were reported to Umar's court of justice, and he refused to enforce the law of *qisãs* vis-à-vis such cases. To quote here two events of the type.

1) A person, belonging to Banu Huzail, attempted to outrage the modesty of the daughter of his host. The latter slapped him forcefully which tore the former's liver. The verdict of Haz Uamar was: "It is undoubtedly a Divine killing which does not attract the law of *qisãs*."[2]
2) Two youthful brothers renewed their bond of brotherhood. One of them left his home for jihad, leaving his brother at home, having

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[1] Tantavi: Seerat Umar b. al- Khattab P. 187
[2] Tantavi: Seerat Umar b. al- Khattab P. 242

entrusted to him the care and maintenance of his home affairs. The brother at home one night found a Jew with his brother's wife in an objectionable condition. He slew the Jew and cast away his necked dead body on to the path. The following morning the case was put before Umar's court of justice. The Muslim youth told Umar رضی اللہ عنہ what he had seen last night. Having heard the tale from the youth, the reaction of Haz. Umar was: "May Allah keep your hands unhurt," and rejected the petition of the Jews.[1]

The *hadd qazaf* (punishment for slandering) has no *raison detre'* other than the protection of the honor of people against being subjected to attempts of defamation. Any person found guilty of slandering must face the punishment prescribed. The punishment of the Hereafter would be harder still. To quote the relevant wording of the Qurãn:

ا ٍ ازُيِ ٍثِيِ ٌ ٍ امُضِبّ د ا ُلِ ذ ا ُمئِبّ دكُِ ٌ ٱلكى ا ُذنٌ
ٱ٥خشِح ، ٌ كُو اقكظ ٌ ٥ ي ّرشذ ك ٌ ٍ أ ُغزّ ٌ أيذي ٌ أسُج ٍ ٌ
ثماَب ٌ ٱكُمِ ٍ ٥ ي ٌٍ يلك ٌ الله دي ٌ ا ُذن كٌم ٍ أ الله ٌ ا ُذن
ا ُمج ٤-

Those who slander chaste, indiscreet, believing women are cursed in this like and in the Hereafter. For that is a grievous chastisement.
On the Day when their tongues, their hands and their feet will bear witness against them as to what they would do.

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1 Ibid, P. 237

> On that they Allah will pay them back (all) their just dues, and they will realize that Allah is the very Truth that makes all things manifest.[1]

Article 12 of the United Nations charter is about the above mentioned fundamental natural right. To reproduce the same here:

Article 12.

> No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attacks upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks.

Right to Protect One's Private Life

Islam recognizes each and every person subject to its rule as a free entity enjoying full constitutional respect and human dignity. It recognizes the right of everyone to reserve some places for his own use without allowing anybody else to interfere with it. To the law of Islam no one else is permitted to arbitrarily interfere with other persons personal affairs and private life. Prohibiting the entrance into the personal and private house without the permission of the inmates, the Qurãn says:

يي أيبي ازُيـ آ ¯ ٱ لاِزذخ ِ ىلُّة بَّ ىٍثقُنثة رَّ ٌ ْ ٍقى
رِغزؤ َغ ٱ رُغِمواعِى أ ْب،را ُ ٌخْ٤ش ُ ٌ ْكِ ٌ ْرزًش ٍ0كبِ ُ ْرجذ ٱ

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1 Al-Qurán: 24: 23,24,25

ﻟﻜﯩﻲ أ دذأًكﻼرذخِ ﺗَﺒْ ﻧﻮى ﭼﺆ ِ ُ ُ ْ، ْأ ِ ﻫ َ ُ ُ ْﻠﺲﭽ ﭑﻟﻜﺲﭽ ﭐ ۡ َ
أص َى ُ ُ ْ، ْﭐﻟﻠﺸﻤﺎرﭽﻤِ ِ ﻛَـﮱ ْ0

O you who believe! Enter not they houses other than your won, until you have asked permission and offered Salam to those in them, that is best for you in order that you may remember.

If you find no one in the house, enter not until permission is given to you. If you are asked go back, go back: that makes for greater purity for yourselves: and Allah knows well all that you do.[1]

This prohibitive rule is not applicable to uninhabited and desolate houses or common places. This exemptive law is stated in the following clause:

ﯘ ﻇﻜَـﮱِ ُ ْ ﺟﺒّﺢ أ ِرذخِ ﻟَـﺜﮱ ﺗَﺒً ﻯﺜّﺲ َﻍ ُ ﺧَﻜﮱﻱ ﺗَﺒﻊُ ُ ْ0

It is no fault on your part to enter the houses not used for living in, which serve some other use for you.[2]

This prohibition covers the peeping into other people's houses as well. To this effect the Holy Prophet ﺻﻠﻰ اﷲ ﻛَـﮱِ ۡ ﻉ ۡis reported to have said:

ﭐﻏﻎ ﻛﯩﻌّﺰي أدذ ُ ْ روٰرِ ﻛﺤﻜﻨ ﻧﺘّﺼﺞ ﻟﻜﻮﻟﺆد ﻛَـﮱ ، َب
بً ﻛَـﮱي َ ِ ﺟﺒّﺢِ،) ﺯَﻟَﻦ ﻛَـﮱِ (

“If a person peeped into your house without your permission, and you disfunctioned his eye

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[1] Al-Qurã: 24: 27,28

[2] Al-Qurã: 24: 29

by hitting it with a piece of stone, you certainly committed no wrong." [1]

Reading other persons' personal correspondence, or trying to read it stealthily, constitutes a sort of violation of one's right to the protection of one's private life. To quote the Holy Qurãn's prohibitive command:

ٌلارجغغ ًا ٌلا يزنتفكِ ع ٌنكِ ڢٍ، أيذنت أدذ ً ٌ أ ٍ ڢِؤ ً َ ُ ذ ٌ
أخٌ ٌ غٓيكٗشٌ زٓمٓ ٌَ، ٌأو ًاالله ا ٍ اللهر ًا قس ئ ٌ-

And spy not on each other, nor speak ill of each other behind their backs. Would any of you like to eat the flesh of his that brother? Nay, you would abhor it; and fear Allah. For Allah is Oft-Returning, most Merciful.[2]

Islam not just prohibited the fault-finding with others, it has also directed the Muslims to hide the faults and shortcomings of other people if a person comes to know the fault (s) of others. The Holy Prophet ٌع ٌ ٌ صلى الله ڪ ِئsaid:

َ ٍس أ ٍ ڪ سَحكغٌِش ب ٍ ٌ َم ٍ أ هٌ ٌ ٌاِحً-)شٌ ٌ خً(

“If a person came to know a fault with another person and he hid it, his this act would be as if he gave the life back to a female buried alive”.[3]

Another *hadith* says:

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[1] Bukhari & Muslim

[2] Al-Qurãn: 49: 12

[3] Mishkat 235

“One who hid his *Mumin* brother's faults, Allah *taàla* shall hide his faults from the people on the Day of Judgment".

Following is an interesting experience of the Caliph Umar b. al-Khattab ˇ ˇسضی اللهٓ in connection with hiding the faults of others. It will tell us what are the proper limits of the *amir's* legitimate interference with other people's private life.

Once during the night hours the Amirul Muminin Umar al-Farooq ˇ ˇسضی اللهٓ was walking with steady steps across the streets of Madinah. In the meanwhile, he overheard the voice of a person who was singing a vulgar song. The Amirul Muminin Umarˇ ˇسضی اللهٓ immediately jumped over the wall of his house and said to him: “O the enemy of Allah! Do you think that you are able to hide your so heinous wrong-doing from Allah, the All-Seeing”! heard this, the person reacted very strongly to the Amirul Mumininˇ ˇسضی اللهٓ and said:

> I’m the guilty of one sin, but you have committed three major sins in a row. Out of your three sins first is the *spying*. Allah Taála has declared the spying to be prohibited in the following words:
>
> ‘spy not’ (S. 49 A.12)ٲ لارجّغغ

Your second sin is that you entered my house by jumping over its wall, while Allah *Taála* has commanded أتثلب ِ ٓ دَ لج ّ رأ .

“Enter houses through the proper doors”
(S. 2 A. 189)

Your third fault being that you trampled on my privacy and entered my house without seeking permission from me, while Allah *Taála* has commanded us to seek permission from the people of the house in the following words:

يأيہا الذين آمنوا لا تدخلوا بيوتا غير بيوتكم حتى تستأنسوا وتسلموا على أهلها ذلكم خير لكم لعلكم تذكرون

> O you who believe! Enter not houses other than your own, until you have asked permission and saluted those in them: that is best for you, in order that you may heed (what is seemly).[1]

Being highly Allah-fearing and seeker of the truth, Haz. Umar رضی اللہ عنہ accepted his fault without reservation and asked him to forgive him in the following words:

> "Would you do good towards me by forgiving my this wrong, the brazen violation of your personal rights"?[2]

Article Twelve of the United Nations' Universal Declaration seeks to reaffirm the same natural right.

> "No one shall be subjected to arbitrary interference with his privacy, family, home or correspondence, nor to attack upon his honor and reputation. Everyone has the right to the protection of the law against such interference or attacks."

Right to Protection of Personal Freedoms

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[1] Al-Qurãn: S. 24 A. 27

[2] Kanzul Ummal 3/808

The law of Islam accords protection to personal freedoms and never permits anybody to deprive a person of his/her personal freedom by using unfair ways or on the strength of mere an accusation without proper investigation. Every accused person is fully entitled to defend himself and ask the plaintiff to put his complaint only in an open court of law. This right means that no accused could be deprived of his/her freedom without undergoing proper judicial procedure of law. No judicial verdict could be termed as an act of delivering justice unless the accused is given full chance to use all means available for his defense. The Qurãn has explicitly put it:

ۡر ا د ٌہ ۡث ٤ ِ ا ُ ٰ بط أ ر ذ ٌامثَبڳـذ ٍ ،

And when you judge between people you must judge with justice.[1]

ۡأش د لاَگـذ ٍثۓ ٌ ٗ ۡ-

And I am commanded to judge justly between you.[2]

Once the Holy Prophet ۡ ِع ۡ ٗ صلی اللہ ٹـۂِ was giving a talk of advice to the people in his masjid. From among the audience a person interrupted his talk by saying: “For what wrong my neighbors have been arrested"? The Prophet ۡ ِع ۡ ٗ صلی اللہ ٹـۂِ ignored his question. The person repeated his question; the Prophet ۡ ِع ۡ ٗ صلی اللہ ٹـۂِ continued his talk and ignored his question again. The person stood up and repeated his question yet again. Then the Prophet ۡ ِع ۡ ٗ صلی اللہ ٹـۂِ

Al-Qurãn: 4: 58
[2] Al-Qurãn: 42: 15

ordered the concerned officer to release his neighbors.[1]

The Prophet صلى الله كۓ ˇ ۡع ِ remained silent in response to the person's repeated question because the police officer was available there among the audience present in the masjid. Since the officer remained silent despite the repeated question about the arrest, the Prophet صلى الله كۓ ˇ ۡع ِ become sure of that the arrest in question was without justification.

During the era of the Caliph Umar al-Farooq رضى الله ˇˇ a person approached him from Irãq and submitted to him: Amirul Muminin! I have come to you due to a matter which has no ground at all. "What is that matter" the Caliph asked him. "The epidemic of false testimonies has erupted in our land." "Is it gaining currency really"? "Yes, of course." The Caliph رضى الله ˇˇ lightened his fear and apprehensions by saying to him: Don't worry, nobody under the rule of Islam, could be imprisoned without a proper justification."[2]

Qadhi Abu Yusuf رحمة الله كۓ writes:

"It is absolutely wrong and unlawful to commit any person to prison merely on the ground that he has been accused of some crime. The Holy Prophet صلى الله كۓ ˇ ۡع ِ never arrested any person merely on grounds of accusation. Under such a situation both the plaintiff and defendant should be summoned to the court of justice. If the

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[1] Abu Dawud, Chap. Qazãt

[2] Muátta, Chap. Conditions for Witnesses

plaintiff produced proofs to support his claim, the case shall be decided in his favour. If he fails, the defendant shall be let free on the basis of the security bond. If the plaintiff thereafter produces any proof to support his claim, so far so good. Otherwise, the defendant shall not be touched."[1]

Articles 9,10, and 11 of the Universal Declaration are about the Right to Personal Freedom. To reproduce them here:

Article 9

No one shall be subjected to arbitrary arrest, detention or exile.

Article 10

Everyone is entitled in full equality to a faire and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11

Everyone charged with a penal offence has the right to be presumed innocent untill proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

Right to Education

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[1] Amin Ahsan Islahi, Islami Riyasat P. 23

Education is a right available to all on an equal footing. Attaining knowledge constitutes an obligation of each and everyone, irrespective of their genders. To quote the Holy Prophet صلى الله ﻛـﻠﻴ ع ْ ٔ ٌ ِ

اغِت ﻠﭗِ ﻟﺸﻴ عخﻜـِى ً َ َغ ْ ٌٔ غمخ.

Attaining knowledge is an obligation of every Muslim, man and woman”.

If a person is desirous to seek knowledge from another person, the latter is bound to offer all possible assistance to the former. To quote the blessed words of the Qurãn in this respect:

ﻟْرا أﺧﺬ اللهﻈﻜﻴبم اُذين أرْ آًزبةزُﺟﻊ ٌ ٌِب ط الرزُم ً ً ،

ﻛﺠﺰ ُ َ سُاء ظ ﺑﺲ ُ ُ ﻟﺸﺮﺗﺶ ﻟﺜﺼﻤﺐ ﻩﻊﻷﻤﻜﻬﺊ ظبَ ﺜﺮﺗﺶ ْ ٠۫

And recall Allah took a covenant from the People of the Book, to make in known and clear to mankind, and not to conceal it; but they threw it away behind their backs, and purchased with it some miserable gain. And vile was the bargain they made.[1]

Following are some sayings of the Prophet صلى الله ﻛـﻠﻴ ع ْ ِ which seek to lay special stress on the importance of knowledge. It is not just a right, but a duty as well.

َ ﻌﺊ ﻛ ِ ﻛـْ ﻟﻜﭗِﺼﻦ ْ زَم ٌ أُج ْ ي وٌّ ﻷب َ ﺘﺠب ٌ ﺑَﺲ

(ﺶ ٌ خً)

“If a person was asked a question about the (religious) knowledge he knew, but he

[1] Al-Qurãn: 3: 187

concealed it, such a person shall be bridled, on the Day of Judgment, with a bridle of Fire”[1]

ثُجِيْثَلِب ّذ لئُبِئت

“The people present here should communicate (the knowledge preached) to those not present here now”.[2]

The State and the society is duty bound to provide all possible and convenient opportunities for education to every person. To quote some relevant *hadiths* of the Prophet صلی اللہ ؑ ْ again.

ا ّماأّبمب ع ْ ٰاللہ ًطی

I'm not more than a distributor, it is Allah, Who grants.[3]

يثِد اللہ ٗخيٍاً لِو . كى اُذيد

He with whom Allah wants to do good grants him the understanding in religion."[4]

Every person is entitled to choose the area and the subject of knowledge and learning in keeping with his capabilities and temperaments. It is because of the fact which the Holy Prophet صلی اللہ ؑ ْ has put in his following words: يسر لما خ ِ ن ُ .

“Every human being is granted the capabilities for which he has been created.”

In the Islamic scheme of things learning has been accorded the status of worship, hence there is no question of remuneration and material consideration.

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[1] Mishkat

[2] Mishkat

[3] Mishkat

[4] Mishkat

It is a mode of worship and thereby the teacher renders a service to his community. Whatever a (religious) teacher receives from his Muslim community is never an exchange of his act of teaching; it is no more than a symbolic consideration for their labour and painstaking. The Prophet صلى الله ع ُ ْ ِ ٌ كَئِ says: خ٤ش ٍ رِكِ ٱوش إِكّمِ ،ٌ

> “The best person among you is the one who learned the Qurãn and taught it.[1]

The Universal Declation of the United Nations too recognizes this right, and the Article 26 is the expression of it.

Article 26.

(1) Everyone has the right to education. Education shall be free, at least in the elementary and fundamental stages. Elementary education shall be made generally available and higher education shall be equally accessible to all on the basis of merit.

(2) Education shall be directed to the full development of the human personality and to the strengthening of respect for human rights and to the strengthening of respect for human rights and fundamental freedoms. It shall promote understanding, tolerance and friendship among all nations, racial or religious groups, and shall further the activities of the United Nations for the maintenance of peace.

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[1] Mishkat

(3) Parents have a prior right to choose the king of education that shall be given to their children.

Right to Work and have Remuneration

Every citizen of the Islamic State is fully entitled to enter into any lawful profession and work of his choice and have a just and favourable remuneration, and no one has the authority to exercise any restraint on one's work and profession, or force any person into undue labouring against one's will.

As a rule of the Islmaic law, no worker and labourer could be forced to work beyond his physical and mental capabilities. The Prophet صلى الله كٍّ ˇ عُ ٍْ is reported to have said:

> “working people should be provided with proper food and clothing; and the work assigned to them must be up to their capacity."[1]

Islamic teachings not just lay special stress on the proper payment of the worker's remuneration, it allows no delay in this respect. The Holy Prophet صلى الله كٍّ ˇ عُ ٍْ is reported to have said:

> “The remuneration of the labourer should be paid before the drying up his sweat.[2]

Allah Taála Says:

ٓبْ ٓ ٖ ﷴ كى الأرض الا عِى للهصب.

There is no moving creature on earth its sustenance depends on Allah.[3]

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[1] Mãlik: Muátta
[2] Ibn Maja Baihaqi
[3] Al-Qurãn:11: 6

لكبٓشاً لكى ٓب جًب ۡ ً ٓسٓصه ـ

> So traverse you through its tracts and eat from His sustenance.[1]

This *ayat* speaks well that everyone enjoys the right to move to anywhere, any corner of the whole earth to seek his sustenance, and is at full liberty to exercise his choice of work according to his temperament and natural abilities.

About the remuneration of the worker the Prophet ۡ ع ۨ صلى الله كٓۓ has said: " Allah taála has said: I declare my extreme enmity towards three people on the Day of Judgment:

First, the one who took an oath under My name, but thereafter committed perjury.

Second, the one who sold a free man and ate up the price he thus received.

Third, the one who employed a labourer but witheld his wages".[2]

The Holy Prophet ۡ ع ۨ صلى الله كٓۓ has also directed that:

> "No worker should be employed without specifying the amount and deal of his wages.[3]

On the other hand, the workers, too, have been advised to carry out the assigned work with diligence and honesty. To quote the Holy Qurãn:

ڸ٤ش ٓ اعۭ جشد اوُوي لأمين

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[1] Al-Qurãn: 67: 15

[2] Bukhari

[3] Baihqi, chap. Ijara

> Truly the best of men for you to employ is the one who is strong and trusty.[1]

In case of any disagreement between the employer and the employee, the State, or the arbitrator, is responsible to interfere with the matter and solve the dispute with complete neutrality.

Articles 23 and 24 deal with the rights of the workers and labourers.

Article 23.

- (1) Everyone has the right to work, to free choice of employment, to just and favorable conditions of work and to protection against unemployment.
- (2) Everyone, without any discrimination, has the right to equal pay for equal work.
- (3) Everyone who woks has the right to just and favorable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection.
- (4) Everyone has the right to form and to join trade unions for the protection of his interests.

Article 24.

- Everyone has the right to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay.

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[1] Al-Qurãn: 28: 26

Right to Freedom of Movement and Residence According to One's Choice

Islamic law recognizes the right of everyone to freely move to anywhere and reside at any place within the borders of the State and abroad, subject to conditions and political circumstances. The Qurãn declares that whole the earth is the subject of travel for all human beings. To quote some respective verses here:

ع٤شٗا كى الأرضص ْ اظَش ٗا َ٤ق َبٕ٘بجخ اُٖ ُزٖث٤ٖ)ُأٗؼبّ(

> Travel through the earth and see what was the end of those who rejected the Truth.[1]

أُ ْر ٌَ أسض الله ٝاعؼخ كزٜبجشٝا كٜ٤ب)اُ٘غبء(

> Was not the earth of Allah spacious enough for you to move yourselves away?[2]

ٖ ٓ َ ٚبجش كى عج ََ الله يجذ كى الأسض شاؿٔبً ًض٤شاً ٝعؼخً)اُ٘غبء(

> He who forsakes his home in the cause of Allah, finds in the earth many a refuge and abundance.[3]

Declaring the expulsion of the people an utterly unlawful act, the Qurãn denounces the children of Israel in the following wrathful words:

رخشج َ كش٣وبً ٓ َ٘ٗ ٖ ٓ ٖ دٗبسٛ ٘ٓ ْ رظبٛشٕ ٝ ِ ٚ ٓ ٚ ْ ثبلإص ْ ٝاُؼذٝا ٕ،

ٝاُ ٚ ٛٞ ٓ َؾ ٖ ٓش ػ ٌْ ِ٤ ٚ اخشاج ٜ ْ .0

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[1] Al-Qurãn: 6: 11

[2] Al-Qurãn: 4: 97

[3] Al-Qurãn: 4: 100

> And drive out a party of you from their homes; assist (their enemies) against them in guilt and transgression. And if they come to you as captives, you ransom them, though it was not lawful for you to drive out them.[1]

Banishment is a grave punishment. This punishment cannot be awarded except to the mischief-makers. Among the various punishments to be awarded to the mischief makers this too has been mentioned in the Qurãn.

أ يُلّ اَ ٍ َ الأرض)اُمائذ (َ

> Or they be exiled from the land.[2]

The Universal Declaration also accords due importance to this right. Article 13 is about this fundamental right.

Article 13.

- (1) Everyone has the right to freedom of movement and residence within the borders of each state.
- (2) Everyone has the right to leave any country, including his own, and to return to his country.

Right to Religious Freedom

Every one living within the borders the Islamic State is fully free to exercise his/her right to choose any set of beliefs and to profess any religion. As far as the religion of Islam is concerned, it is the only true

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[1] Al-Qurãn: 2: 85:

[2] Al-Qurãn: 5: 33

religion and possesses a complete law and perfect code of life. The religion of Islam shall be freely preached. Sound arguments and demonstrations shall be offered to support of its precepts and practices; and its proselytiation shall be encouraged by all possible lawful means. But, despite the fat that Islam is the only true religion of Allah and the Ultimate Success stands associated with it, it shall not be forced upon the people. Military steps or the social pressure has no rule in matters of creed and religion. The following words of the Holy Qurãn are categorical in this respect:

لاآش اكى اُدين، هذرج٤ اُششذ ِ ا ُ ـي:

> No compulsion in (the matter of) religion, Truth stands out clear from the Error.[1]

There exists a number of verses in the Holy Qurãn which seek to establish the law of freedom and freewill in respect of professing or rejecting a religion. To quote here only a few:

ُ شفعسثي ٥ َ ِ َ إكى الأسض ً. ْ جمكيب، لُفؤ ً ذرشّ َ اُبّ ط
فوى يُ ٌ ٌّ أ َ ٌ َ ٤ ِ)يّ ٌّظ-99(

> If it had been your Lord's will, they would all have believed, all who are on earth! Will you then compel mankind, against their will, to believe![2]

كفزشّ، اُب أ ٗ ذ زَش، ُغ ذكٍ٤ .ْثصش٤طشٍ ٍِ

[1] Al-Qurãn: 2: 256
[2] Al-Qurãn: 10: 99

…….So, give admonition, for you are only to admonish. You are not to control their affairs. [1]

بٌ ٓ كَ ٓبِ اال اجُلاغ اُمجٍ٤)يِ غٍ٤ 17(

And our duty is only to proclaim the clear Message. [2]

ُ ُ ْ دي ٓ ُ ْ ُ ي دين-

To you be your Way, and to me mine![3]

أللهرثّب ُسثَ ُ ْثّب أكَٔبُُب ُ ُ أكَٔبُ ُ ، ال دجخّ٤ب ثِ٤ ٓ ُ ْ

)هُِٖ ٌّس(

Allah is our Lord. For us are our deeds and for you are yours. No contention exists between us and you. [4]

How far the Muslims and the Islamic State have been sincere towards this natural right of the human beings could clearly be seen in the mirror of the history. The Islamic history is replete with the shining examples of the Muslim's religious catholicity and tolerance. Here is only a single example:

Wasaq Rumi, a slave of the Caliph Umar سضی الله ٗ کstated his own story as follows:

"I was the slave of Umar bin al-Khattab سضی الله ٗ ک. He advised me to embrace Islam. He often told me: Embrace Islam, I will entrust you any position of the Muslim public work. I disapprove of entrusting a non-Muslim with the task of the public service. But I

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[1] Al- Qurãn: 21, 22
[2] Al-Qurãn: 17
[3] Al-Qurãn: 2: 256
[4] Al-Qurãn: 42: 15

refused to follow his advice every time, Umar's reaction would be no more than ﻻ أشاكى ا ُ ٤ٖ

"No compulsion in the matter of religion. At his martyrdom he set me free, allowing me to move to anywhere." [1]

So far as the preaching of Islam and the communication of its message to the human beings is concerned, the preachers are taught never to be harsh in tune, never to commit any disrespect towards the sacred persons and places of their addressees. The communication approach should be as good as possible. To quote the relevant words of the Holy Qurãn:

ﻻرُغ ٱأزيٍ يتك ٍ د ٍ الله)لٌهِبٌ(

And revile not you those whom they call upon sides Allah.[2]

ال رجبدُ ٱ أ ٌزَبة اال ثبزُى ٍ ى أ دغهٌ ٌ ٌد(

And dispute you not with People of the Book except in the best way.[3]

Freedom of changing one's religion also is an aspect of the right to religious freedom. According to the law of Islam, all peoples living within the borders of the Islamic State are free to change their religions and creeds according to their choice. Only the Muslims are an exception to this freedom. Muslims cannot avail of this freedom because of the fact that Islam has established its truth in the light of the

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[1] Kitabul Amwal 1/154
[2] Al-Qurãn: 6: 108
[3] Al-Qurãn: 29: 46

strongest proofs and arguments beyond doubt. Another point of the argument against such freedom for Muslims is that nobody is forced or tempted to come to the fold of Islam. The person embracing Islam follows his own freewill and moves to Islam in the light of his findings and researches. Once a person entered the fold of Islam out of his own volition, his forsaking it will amount to defaming it and bringing disgrace to it.

During the blessed days of the Holy Prophet صلی اللہ عليه وسلم a section of the Hypocrites out of the people of the Scripture had planned to defame Islam and to harm its verasity by the trick to enter into Islam in the morning, but to reject it at the end of the very day. They thought the trick would bring disgrace to the precepts and practices of Islam and mar its unhindered advance. The following verse of the Holy Qurãn refers to the same trick:

نْبِ ذ بِعِلخ أ ا ُتِّ ة آ تَّبزُيطُنِّ ِكَـ ِى ازُيِ
آآج ا ُبّس ألش آخشح،كِّ ِ . يرك 0

> A section of the people of the Book say: "Believe in the morning what is revealed to the Believers, but reject it at the end of the day. May be they thus step back.[1]

Obviously, no religion and ideology can afford to let the people bring disgrace to it or block its advance. If the law concerning the apostasy smacks of compulsion, it is only to deal with insiders, to the exclusion of the outsiders. The latter, therefore, have

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[1] 3/72

no legitimate reason to object it or erroneously interpret it in terms of religious compulsion.

According to the law of Islam the religious minorities have the right to adopt a free mechanism for the protection of their places of worship, and even to build new ones according to their requirements. Normally, the State has no right to dispossess a people or sect of its places of worship, or interfere with its religious affairs and institutions.

Haz. Umar رضی اللہ happened to offer his *Salat* in a corner of a church. Preoccupied with the apprehension that the Muslims might drive out the Christians from the church for the simple reason that he once offered the *Salat* inside it, the Caliph wrote a special document and handed over it to the patriarch. Through the document the church was declared specific for the followers of the Christian faith, and the Muslims were permitted to enter it only singly.[1]

During the whole Faruqi era no church or other places of worship of the conquered lands were touched. To quote Imam Abu Yusuf:

"Their churches or other places of worship were neither demolished nor subjected to any other kind of destructive activity; status quo was strictly maintained.

How the Muslims behaved the non-Muslim religious minorities living under the Islamic State has been duly acknowledged by many orientalists. To quote, for instance, a leading one here:

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[1] M. Husain Haikal: Faruq Azam P. 302,

The accords reached at by the Prophet Muhammad and the religious entities living under the Islamic State of Madinah incorporated a guarantee of a fuller freedom of religious affairs. This freedom remained unchanged during the latter ages as well. The churches of the Christians and the hermitages of the Jews remained safe. Although at latter times it was opined by some that the religious minorities be not allowed to build their new places of worship, yet such laws were never enforced.[1]

Article 18.

Everyone has the right to freedom of thought, conscience and religion; this right includes freedom to change his religion or belief, and freedom, either alone or in community with others, and in public or private, to manifest his religion or belief in teaching, practice, worship and observance.

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[1] The Majesty that was Islam P. 74. 1974, London

Right of Minorities to Protect their Legitimate Interests

Like the freedom of religious affairs, the religious minorities of the Islamic State enjoy a fuller right to protect their other rights and legitimate interests. This is based on the *hadith* which reads: Beware! He who subjected a *muáhid* to a wrong or denied him any due right of his, or burdened him unreasonably, or took from him a thing against his volition, I myself shall be a complainant against such a person on the Day of Judgement."[1]

In this regard Hasan al-Basri's observation is of great significance. The observation was made in response to the query put by H. Umar b. Abdul Aziz: "The *dhimmis* make the payment of jizya only to seek the freedom to live in accordance with their beliefs. You are committed to follow your predecessors rather than inventing new ways."[2]

Right to Freedom of Opinion and Expression

The Islamic law recognizes the right of all of its subjects to the freedom of opinion and expression. Every citizen is free to express his views concerning any matter. Islam is averse to curbing the freedom of speech and expression. Using the faculty of expression and speech for the sake of truth and for

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[1] Abu Dawud, al-Jihad

[2] Al-Mabsut

the constructive and reformative criticism is regarded an admirable act by the Qurãn:

رؤﺵۡ ﺚﺐُ ﻤﻬﺸُﻒ ﺭُ ۡ. ۦ ﻙٍ ﺍ ُﻤﺵ)ﺁ ٍ ﻙﻤﺭﺍﻦ(

You enjoin what right and forbid what is wrong.[1]

The only restriction to this freedom is that it must not be applied to counter the truth and publicise the evil and making mischief in the hand. According to the Qurãn, doing so constitutes an attribute of the Hypocrites:

ﻴﺄﺵۡ ﺚﺐُ ﻤﺵ ۡﻴ. ۦ ﻙٍ ﺍ ُﻤﻬﺸُﻒ)ﺍﺯُﺦ(

They enjoin evil, and forbid what is just.[2]

There exists a bulk of the *hadiths* and *aathar* which establish this human right beyond doubt. The Prophet صلی اللہ علیہ وسلم was given to seek advice from his Companions concerning the matters of high import and he would hold consultations with them. He always encouraged them on the expression of the views. Take, for instance, the great event of the battle of Uhud. The plan of the Prophet صلی اللہ علیہ وسلم, and many of his great Companions was to stay inside the town and fight the invading Makkan army from within the town. But Hamzah, his uncle, and the majority of the youthful zealous Companions opined that the invading enemy be fought outside the town. Seeing the majority espousing the latter opinion, the Prophet صلی اللہ علیہ وسلم too started preparations accordingly. He went home, put on his arms and the

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[1] Al-Qurãn: 3: 110

[2] Al-Qurãn: 9: 67

coat of mail and came out. The young men who had been keen on fighting the enemy outside the town felt ashamed when they saw the Prophet صلی الله كۓ ˇ عْ ِin arms. They begged him to follow his own counsel. The Prophet replied. “It befits not a Prophetˇ صلی الله كۓ عْ ِ when once he has put on the arms to lay it off until he achieves the end of war. We shall face the enemy only outside the city of Madinah.[1]

Once the Apostle of Allah صلی الله كۓ ˇ عْ ِ distributed the spoils of war among the people. A person observed that the distribution was not fair and equitable. The observation no doubt was extremely unjust. The Prophet صلی الله كۓ ˇ عْ ِ however, ignored it. From some quarters the distribution was termed to be against the norms of justice. The Holy Prophet's reaction was not more than that: “If I committed injustice, then who is there to do justice"?[2]

Once a dispute, which was between H. Zubair b. al-Awwam and an Ansari, was brought to the Holy Prophet صلی الله كۓ ˇ عْ ِ. He decided the matter in favour of the former. The angered Ansari observed. "You decided the dispute in favour of the son of your paternal ant." This was an extremely rude remark, but the Prophet of Mercy ignored it, and took no action against the Ansari.[3]

In an expedition the Prophet صلی الله كۓ ˇ عْ ِ directed his army to camp at the place so and so. To

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[1] Islam ka Iqtisadi Nizam: Hifzul Rahman Siyoharvi P. 89
[2] Mishkat on Mirqat 7/118
[3] Al-kharaj P. 53

an experienced Companion the place pointed out by the Prophet صلی اللہ علیہ وسلم was not strategically appropriate. He enquired the Prophet صلی اللہ علیہ وسلم whether his suggestion was based on a revelation from Allah or his personal opinion. "It is my personal opinion, and not a revelation-based direction" explained the Prophet صلی اللہ علیہ وسلم. Upon this the Companion expressed his opinion that, "The place so and so would be strategically more appropriate than the one pointed by you." The Prophet صلی اللہ علیہ وسلم readily accepted his suggestion.[1]

During the era of Haz. Abu Bakr a woman was guilty of composing and reciting a poetry to satirize the Muslims. The authorities took out her teeth as a punishment. On learning the event the Caliph Abu Bakr disapproved of it and wrote to his Governor Muhajir bin Ummayyah:

> "I learnt that you have extracted two frontal teeth of the woman who is given to compose and recite the satirical poetry against Muslims. If such a woman belonged to the Muslim society, for her it was just enough to warn and reprimand. She never deserved a punishment bordering on mutilation. But if the satiring woman was a *dhimmi*, we are tolerant towards her despite she commits the sin of polytheism, then to what does stand the recitation and composition of anti-Muslim satirical poetry? Were it that I had warned

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[1] Seerat al-Nabi of Shibli Nomani 1/295

> you before, you would have to suffer the bad consequences of your doing."[1]

The above citations suggest that the minorities under the Islamic State enjoy a fuller freedom of expression. The device and style adopted by the woman mentioned above were highly objectionable. Still, the Caliph of the Holy Prophet صلی اللہ علیہ وسلم preferred to dismiss her mischief making in a spirit of tolerance.

The Universal Declaration too recognizes this right, but it is not so comprehensive as that under the State of Islam. Article 19 is the expression of this right.

Article 19.

Everyone has the right to freedom of opinion and expression; this right includes freedom to hold opinions without interference and to seek, receive and impart information and ideas

[1] Siyasi Wasiqajat: Dr. Hamidullah Siddiqi P. 217

Right to the Freedom of Assembly and Association

Every citizen of the Islamic State has a full freedom to make associations and unions in order to achieve constructive ends. This includes the right to launch and run the educational and cultural institutions and organize and associate with the persons concerned.]

It is because of the fact that according to the Qurãn the advent of the *Ummate Muslima* is meant for no other purpose than making unending struggle for the constructive and reformative ends and containing the evil and destruction. To quote the words of the Qurãn:

ًزٌ ْ خٕش أ َخ أُخشج ذ ُبّ ط،روشٌ ُ بثبُكشٌ ُف رٌُ ّ. ًَ ِكٌ ٍ
اُ ٔ ّشٌ رؤٌ ِ ّ ثبلله.

"You are the best of peoples evolved for mankind. You enjoin what is right and forbid what is wrong, and believe in Allah[1]

Obviously, the *ummah* as whole can not devote itself to this noble cause, at least a group of people must devote itself to this high and noble cause. To quote the HolyQurãn again:

ٌْرٌُ ٍ ّ َّ ٌ ْ أُ َخ يكٌ َ ِ اُى اُخٕش ُوٌشٌ ُ بثبُكشٌ ُف ُيٌ ّ. ًَ ِ
كٌ ِ اُ ٔ ّشٌ، ًأُ ُئي ٌ ْ اُ ِلٌ ِذ ًَّ.

"Let there, from among you, be a group of people inviting all to what is good, enjoining

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[1] Al-Qurãn: 110 : 3

what is right and forbidding what is wrong. Such are those who are to attain success."[1]

To achieve this noble end more effectively, the people shall be at liberty to unite different people, personalities and scattered forces in an organization. In the same manner, the people will enjoy the right to freely organize the people and make union to safeguard their legitimate rights and interests, to seek redressal of their complaints and grievances and the solution to their problems. The only condition is that such an organized force must not be directed to mischief-making in the land or to hatch destructive ends. The same right has been recognized by the Universal Declaration of Human Rights by its Article 20.

Article 20.

- (1) Everyone has the right to freedom of peaceful assembly and association.
- (2) No one may be compelled to belong to an association.

Right to Seek Official Employment and Positions

Every citizen of the State of Islam enjoys an equal right to seek official positions or jobs within the boundaries of the State. In many military expeditions the Prophet صلى الله عليه وسلم appointed the Companions of a comparatively inferior position as commander

[1] Al-Qurãn: 2-3, 104

over the Companions of the position as great as Abu Bakr al-Siddique and Umar al-Farooq رضی اللہ عنہما; and the great Companions had little objection to it. Take for instance the expedition of the Zaatus Salasil. Amr bin al-Aas was placed as commander while the Siddiq and Faruq included the army. Seeful Bahr expedition was sent under the command of Abu Ubaidah b. al-Jarrah and the army included Haz. Umar al-Farooq رضی اللہ عنہ[1]

In more military expeditions than one Haz. Zaid b. al-Haritha رضی اللہ عنہ was appointed as commander while he was a freed slave, and all the people under his command accepted him as such without the slightest compunction. The Tabuk expedition offers a very conspicuous example in this respect. Before leaving Madinah, the Prophet صلی اللہ علیہ وسلم entrusted Haz. Ali the responsibility of his household, while, in the same breath, appointed Muhammad b. Maslama al-Ansari as his deputy and governor at Madinah, the capital city of the Islamic State.

Towards the last phase of his life, the Prophet صلی اللہ علیہ وسلم arranged an army which comprised the senior most *muhajirin* including Abu Bakr al-Siddiq and Umar al-Farooq and all the great Ansars. This expedition was sent under the command of Haz. Usama b. Zaid b. al-Haritha رضی اللہ عنہما That is, under the commander of the son of a freed slave. In the meanwhile, the condition of the Prophet's health got critical. The great Companions, like Abu

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[1] Idrees kandhalavi: Seeratul Mustafa 2/158- 160

Bakr and Umar سضی اللکٗ ہما, too, came to visit and attend the Holy Prophet صلی اللہ کٗۓِ ˇ عٗ ۡ only after seeking permission from their young commander.[1]

During the caliphat of Umar the Governor of Makkah, Nafe b. al-Harith told Haz. Umar that he had placed as his deputy one Ibn al-Barri, a freed slave. In order to ascertain who was Ibn al-Barri, the Caliph asked the Governor Nafe what kind of qualities Ibn al-Barri possessed. On hearing his qualities the Caliph was happy and observed:

> "Why not, our Prophet صلی اللہ کٗۓِ ˇ عٗ ۡ has said that through this Book, i.e. the Qurãn, Allah Taála shall raise some people and through the same book shall bring down some others."[2]
>
> The Holy Prophet صلی اللہ کٗۓِ ˇ عٗ ۡ has directed us:
>
> صاٗ خ ِق ً نَلْکشفٗجش
>
> "Offer the Namaz under the *imamat* of every virtuous and wicked person".[3]

This means that if the political or religious *imamat* falls to the lot of a person lacking in the desired qualities required and he is below the desired standard, obey him without compunction. The Prophet صلی اللہ کٗۓِ ˇ عٗ ۡ has also said:

> "Don't disobey your *amir* even if he happens to be a black slave."[4]

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[1] Al-Tabaqat al-Kubra 2/136
[2] Bunyadi Huquq 281
[3] Mishkat
[4] Mishkat

These sayings of the Holy Prophet صلی اللہ علیہ وسلم are clear to suggest that every person how low soever he happens in respect of his social standing, is entitled to expect even the higher positions under the State of Islam, and nobody can direct his objection to take the authorities to task merely on the ground why such a higher office has been granted to a person of such a low social standing.

Nonetheless, Islam accords due importance to ability and competence for a constructive leadership. An undeserving person may legally grab an office, yet it is not good for the whole nation and State to entrust great offices to the persons lacking in the required ability and efficiency. The Universal Declaration's Article 21 is meant to reaffirm the same right.

Article 21.

- (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- (2) Everyone has the right of equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent voting procedures.

Right to Share the Process of Formation of the Government

Not just the right of equal access to public services, but every man of sane living within the boundaries of the State of Islam has the right to share the process of forming and managing the government on an equal footing. As a matter of fact, to the Islamic ideology, the office of the khilafat and governance is not exclusive to a particular individual, group of people, a race or a section. It, rather, has been granted to the whole of humanity and the *millat* of Islam. This is not actual sovereignty, it is only vicegerency, which has been granted to man on this earthly planet on behalf of Allah, the only Sovereign in the Universe. To quote the words of Qurãn:

ا ز ِ عجِ خئق کی الإرض

It is He who has made you the inheritors of the earth.[1]

Based on this concept, everyone possessing the essential competence (the foremost of which being the belief in Islam) has a fuller right to take part in the process of formation of the government and in managing the affairs of it. The ideal political system of Islam is not the monarchy or the oligarchy, the Caliph has been made bound with the body of counselors. The Qurãn saya:

أش شْ سَ ِث ۡ.

[1] Al-Qurãn: 6: 165

And their affairs are conducted by mutual consultation[1]

Even the Prophet himself, who stood in little need to seek advices from others, has been ordered by Allah to seek counsels from his Companions.

ْشِبُس ّٗك االَش.

And consult them in affairs[2]

This suggests that the Islamic political system is averse to the concept of monopoly of an individual, a particular family or a group of people. Rather, it is to be shared by all the men of sane; and everyone has equal access to all the positions and offices of the State of Islam.

The practice of the Prophet Yusufغالّ ١ٗ ڪۓ offers an excellent example in this regard. The Prophet Yusuf accepted a great political office under an un-Islamic State and took a very active part in managing the affairs of the government, having assumed the highest office of the State."[3]

The following verse of the Holy Qurãn refers to the same fact:

هب ٍ اجِّـ ّی عِی خز ائِ الأرض، إنی حِۓع ڪۓ ْ.

Yusuf said," set me or the store-houses of the land; I am a good keeper, knowledgeable.[4]

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1 Al-Qurãn: 42:38

2 Al-Qurãn: 3: 159

3 Notes on the Holy Qurãn by Shaikhul Islam Maulana Shabbir Ahmad Usmani.

4 Al-Qurãn: 12: 55

The authority and higher position he got in the structure of the then Egyptian government finds mention in the Holy Qurãn in the following words:

ٌ رَّ أ ي ٓ ٓب ٗ ٌَّ ق ل ى الأرض ٌ ج أ ٓ ٓب ٥ش يشاء

"And thus We established power to Joseph in the land, to take possession therein as and where he pleased."[1]

The Prophet Yusuf ّعال ١ ٗ ٌ wielded so enormous power and authority in the State of Egypt that he turned to be much the same as was the Egyptian monarch himself, and the people had begun to regard him as the supreme authority of the State, termed as *aziz* in those days. To quote the Holy Qurãn again:

ب ٔ ٓا ي آ ي ب ع ضي ض ا ٍ ٗ ُ ٌ ب ش ٤ خ ً ج ٌ ٍ ش ا ٌ خ ز أ د ذ ٗ ب ٗ ٓ ، ل ٗ ش ا ى ٓ ا ُ ذ غ ٤ .

'They said "O Aziz (literally, the exalted one) he has a father aged and venerable, (who will grieve for him); so take any one of us in his place; for we see that you are from among the virtuous people."[2]

Still, he was not the supreme power of the State of Egypt; he was a powerful partner in managing the affairs of the State. This too is suggested by the prayer he made, and which the Qurãn has cited in the following words:

س ة ذ ا ر ٓ ى ٓ ا الملك ٌ ٗ ز ى ٓ ر ا ويل الأحاديث.

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[1] Al-Qurãn: 56: 12

[2] Al-Qur 78: 12

> O my Lord! You have indeed bestowed on me some power, and thought me something of the interpretation of dreams.[1]

The Qurãn has cited this practice of the Prophet Joseph approvingly.

This, therefore, offers an ample proof to the effect that the Muslims may share power in the structure of an un-Islamic State. Even the higher posts and offices may be sought under an un-Islamic government.

The Islamic constitution may draw the guidance from the practice of the Prophet Josephعَلَّ ا ˇ كَـِٔ in this regard, especially the Muslims as minority under different non-Muslims States across the world may solve their problems in the light of the practice of the Prophet Joseph.

The United Nations Universal Declaration, too incorporates articles to recognize this important basic human right.

Article 21.

- (1) Everyone has the right to take part in the government of his country, directly or through freely chosen representatives.
- (2) Everyone has the right of equal access to public service in his country.
- (3) The will of the people shall be the basis of the authority of government; this will shall be expressed in periodic and genuine elections

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[1] Al-Qurãn: 12: 101

> which shall be by universal and equal suffrage and shall be held by secret vote or by equivalent voting procedures.

The Islamic and the United Nations' constitutions both, however, differ from each other in so far as their sources of sovereignty are concerned. The primary source of the laws of Islam and the sovereign of the Islamic State is Allah only. The Universal Declaration of the Human Rights on the other hand, is based only on the will of the people. In other words, the-sovereignty of the un-Islamic State being its the subjects themselves. To assume an office in the Islamic State the required competence and ability is must. Those lacking in it must be kept away from the important positions and offices. Under the Islamic State the sovereignty of Allah is represented by the body of the able and learned counsels. Those not in possession of the due ability and the required competence can not be entrusted with the offices in the State of Islam. The Holy Prophet صلی اللہ علیہ وسلم reported to have said:

لرا ع األ ش ای غیر أ لکبرظش ابغکخ-)اجخس(

> "When the affairs are entrusted to those without required competence and abilities, wait for the advent of the Hour.[1]

According to the Islamic teachings, casting the vote constitutes a sort of trust. The Prophet صلی اللہ علیہ وسلم is reported to have said:

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[1] Bukhari 10/164

اُمغشبس ٓىؤمن

"The counsel is a trustee.[1]

Regarding the trust the Holy Qurãn says:

هللا يأ ٓشً إ رىئدٌاالأمٰنٰب د إلى أهلها.

Allah commands you to render back the trusts to those whom they are due.[2]

Based on such noble teachings it will be safe to put that about the power-sharing in a government the constitution of Islam gives safer and more cautious rules.

Right to Get Justice

The law of Islam grants equal right to every citizen to get justice on an equal footing, apart from that he/she belongs to the majority or minority groups It removes all the possible barriers of undue favour and disfavor, kinship, enmity, national or ideological differences social regarding the establishment of and the likes. The Islamic principles delivering justice never let such factors affect the procedure of justice. Numerous verses of the Holy Qurãn are meant to lay down directive principles concerning the establishing of justice. To quote here only a few:

ه َ ٔلَس سثى باوُغكَ،)ألاشاف(

Say: 'My Lord has commanded justice.[3]

أُش د لاَـذ ثِـٔ)اش َس(

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[1] Mishkat on al-Mirqat 9/283

[2] Al-Qurãn: 4: 58

[3] Al-Qurãn: 7: 29

> And I am commanded to judge justly between you.[1]

ۡ إ د ُمت فاحـ ُ ٌتـٓ ٰ ٌثبو ُغ ٌـ ، إ الله يحب ا ُمو غطٓ١٤

If you judge, judge in equity between them. For Allah loves those who judge in equity.[2]

In the Islamic scheme of things the establishment of justice is far too above than the Presonal, familial interests and the differences of religion, caste and race. How high is the concept of justice which in Islam from the following verse of the Qurãn, the Final Message of Allah to mankind:

يآيب ا ُذين آ ٓ ٓ ا ٓ ٓ هآ ٤ٍ ثـبو ُغ ٌـش ۪ذاء لله ُ ٌـ ِى أ ٌ غ ُ ٰ

أ ُ ا ُ ا ُذي ۪ ُالأقشثٔ ۪، ا ۪ ي ُ ۪ ئٕ ٌـ أ ٌ ُٕوش ٌـ لله أ ُى ث يب ٕ ٛكلا

رزجؼ ا ُ ۪ أركـ ـذ ُ ُ ، إر ِ ُ أ ٌْـش ظآ ٌكب إ الله ٌـبثٕ ٌـمار ٌـ ِـ ۪

خجشاً)اُغبء 135(

> "O those, who believe! Standout firmly for justice as witnesses to Allah, even as against yourselves, or your parents, or your kin, and whether it be against rich or poor: for Allah can best protect both. Follow not the lusts (of your hearts lest you swerve, and if you distort justice, or decline (to do justice), Allah is Well-Aware of what you do."[3]

This verse clearly puts all the essential conditions for the establishment of justice. Those conditions may be arranged as below:

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[1] Al-Qurãn: 42: 15
[2] Al-Qurãn: 5: 42
[3] Al-Nisra: 135

1. Doing justice, and making all possible endeavors towards this noble end is a thing which must emanate from one's belief in Allah and in the Day of Judgement. That is why Allah has demanded it from the Believers on the strength of their belief.
2. Bear witness only for the sake of Allah's pleasure, rather than favouring or disfavouring the parties involved.
3. Never deviate from the path of justice, even though doing so goes against your personal or familial interests.
4. Let not the economic or social considerations, or the differences of the parties in respect of their social or positional standing prompt you depart from doing justice disinterestedly.
5. Before the court of justice the relevant facts must be put as they stand, without interpolating them with one's whims and wishes.
6. The related facts must be put in clear terms, free from all ambiguities and vagueness. Another verse of the Holy Qurãn says:

ال يجر ش إ ه كى أ الركذ اكذ أ أهشة
زو ، أزو إ هلل اجخ شرثماركم)اُمطئخ(

And let not the hatred of others to you make you swerve to wrong and depart from justice. Be just; that is nearest to piety: and fear Allah. For Allah is well-acquainted with all that you do.[1]

[1] Al-Qurãn: 5: 8

7. The verse demands from the people of belief in Allah that their hate and aversion to a people, or the sectional or religious differences must not promt them depart from the path of justice. Piety and the fear of Allah are the best thing to guard the man against his departing from the path of absolute justice.

Thus, the Qurãn, the chief source of the laws of Islam, sheds light on all aspects of establishment of justice to complete the constitutional framework, thereby to facilitate an equal access for all to justice.

As a matter of fact, in the Islamic scheme of things, doing justice is never a sport activity, or a matter of one party's gaining and another's losing. Doing justice, or bearing witness, is undoubtedly an important sort of worship, a very important means of seeking the pleasure of Allah. According to the Islamic law getting justice is from among the fundamental natural rights of every citizen and to every person living within the borders of the Islamic State it must be provided absolutely free of cost.

In no case the justice may be treated like a business commodity. To sell justice in exchange of some monetary price will certainly amount to subjecting the wronged to a twofold injustice. The trade of justice, which has now become a commoner phenomenon throughout the world, and the heavy charges of the professional lawyers have rendered the getting of justice almost inaccessible for the common people. The Islamic law is entirely opposed to the trade of justice. Insufficient or assumptive evidences

can not be the basis of a verdict. To the law of the Islamic *Shariat* both the parties, the plaintiff and the defendant, are fully free to put their positions before the court of law.

Mere allegations can never be a sufficient ground to punish any body unless an allegation against a person is freely and fairly investigated and found true. It by no way could offer a legitimate ground for issuing the sentence of punishment against the accused. The Holy Qurãn says:

يآ يب اُذين آ ¯ ˇ آ إ جبءˇ كبعن ﺠﻚ لكنجع ˇ آ ، أرصعجآ ه آب
ثجبخُ لكنصع جذآ كيب لكچز ˇ ٔب دٓع

O those who believe! If a sinner comes to you with any news, ascertain the truth, lest you harm people unwittingly, and afterwards become full of repentance for what you have done.[1]

The higher standard which the law of Islam has introduced for determining the veracity of the claims and the counter claims can not be subjected to further improvement. The false witness has been counted from among the dreadful and devastating sins, equal in effect to the disbelief and polytheism. To quote the saying of the Holy Prophet in this regard:

كٍ خضڻيثٍ لكبريهب ٍصى سع ˝ ٍصى الله عئ ˇ ُع ٍ صالح
اُصحخكِب اضّشفب ّبيءملكوب ٍكذُ نشيحطُسُيثب لإشراىيثب لله
طلىخ ّش اد.

Khuzaim b. Fatik ˇ ˇ رضى الله reported that the Prophet ٍ ُع ˇ صلى الله once offered the Dawn prayer. After finishing the prayer he stood up

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[1] Al-Qurãn: 49: 6

> and said: False witness has been equated with forging partners with Allah *taãla*. The Prophet صلى الله عليه وسلم repeated this sentence three times."[1]

False claimants have also been sternly warned against taking their claims to the courts of law. If a person won the litigation on the strength of one's plausible argumentation, this shall never render the unlawful as lawful. Such trickful argumentation is bound to render the crime of making a false claim graver still in the find court of justice to be held by Allah Taãla Himself on the Day of Judgment. Of such matters the Prophet صلى الله عليه وسلم has spoken as follows:

اَمَاأَنَبَشَرٌ، اِنَّهُ يَأْتِيْنِي الْخَصْمُ، فَلَعَلَّ بَعْضَكُمْ اَنْ يَكُوْنَ أَبْلَغَ مِنْ بَعْضٍ فَأَحْسِبُ أَنَّهُ صَادِقٌ فَأَقْضِي لَهُ، فَمَنْ قَضَيْتُ لَهُ بِحَقِّ مُسْلِمٍ فَإِنَّمَا هِيَ قِطْعَةٌ مِنَ النَّارِ

> "I'm a human being like you. People take their complaints to me. May be one, out of the complaining and defending parties, more plausible in argumentation and I decide the case in his favour thinking him as true. In case I decided the case in favour of such a plausible party, he must not take it. For such a thing, in reality, is nothing but a piece of fire which I have given to him."[2]

So far as the system of justice is concerned, the law of Islam recognizes no differences regarding its

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[1] Mishkat on al-Mirqat 7/260, 61

[2] Bukhari & Muslim, Mishkat on al-Mirqat 7/252

subjects. One's belonging to the majority or minority groups of population, or the richness and poverty of its subjects hold no meaning at all. It has bestowed a fuller right upon the members of the minority group to take his claim to the court of law even if the second party belongs to the majority group, or even if he engages the seat of the highest authority in the State. The court of the Islamic law will hear the litigation and decide the dispute in accordance with the credible evidences available. The Islamic court of law can not be affected by the strength of majority or that of the wealth or power.

This is not mere an ideology; the history of Islam is far too outshining in having the numbers of the practical examples of establishing justice. No judicial history of any people or nation, throughout the whole human history, could ever offer the examples of the kind. Take one or two examples for instance.

- Haz. Ali رضی اللہ عنہ lost his armour. Later it was seen with a Jew. As plaintiff, Haz. Ali رضی اللہ عنہ took the matter to the court of *Qádhi* Shureih. The Qadhi (Judge of the Islamic court of justice) addressed Haz. Ali as: Abu Turab! Sit beside your opponent." The Qadhi felt that HAz. Ali, the Caliph and the standing Amirul MUminin, was displeased with him because of his rude address. So, he explained his addressing as: Abu Turab, maybe you are not pleased with me due to my asking you to sit beside your

opponent. You know that the same is the demand of Islam's legal and juridical spirit of equality." Vis-à-vis the explanation offered by the Qadhi the reply of the Amirul Muminin Ali was: It never was displeasing to me that you as Qadhi asked me that I should sit beside my opponent. What actually displeased me was your mild and respectful form of address to me you uttered to ask me the same; and thus treated me with respect as compared to my opponent. This indeed constituted a brazen injustice towards my opponent.[1]

(a) Once Haz. Umar bin al-Khattab رضی اللہ quarrlled with Haz. Ubai bin Káab رضی اللہ over some matter. To end the dispute the Amirul Muminin Umar رضی اللہ adviced him to have an arbitrator to get the dispute decided by him. The latter Companion accepted the proposal of the former and agreed to have Haz. Zaid bin Thabit رضی اللہ as arbitrator and both took their matter to him. "We have taken our dispute to you, while others take their matters to me to get them decided". The arbitrator offered him share his mat and pointed by hand to sit beside him. Arbitrator's discriminatory treatment displeased him, and he expressed his displeasure in the following historic words:

"This is the first wrong you have done to the interest of justice. I shall sit only with my opposite

[1] Amin Ahsan Islahi: Islami Riyasat P. 45

party". Both the parties sat before the arbitrator. Haz. Ubai bin Káab رضی اللہ عنہ advanced his claim, but the Amirul Muminin refused to acknowledge his opposite party's claim against him. The claimant asked the defendant to express the same on oath. Now the arbitrator intervened and urged the claimant to except his defendant from taking an oath saying: "Would you except the Amirul Muminin from oath? I'll not ask you such an exception for any body else other than the Amirul Muminin رضی اللہ عنہ". But the defendant, the Amirul Muminin Umar رضی اللہ عنہ did not want such a discriminatory exception. So, he defended himself and took oath and repeated his oath. Umar's this behavior perplexed the arbitrator for a while as he was unable to assess the high moral value of Haz. Umar's doing which set a high standard of unquestionable equality between the head of the Islamic State and a common man.[1]

(b) Jabillah bin al-Ayham al-Ghassãni, the Arab-Christian king of Ghassan, accepted Islam and with his royal pomp and show, paid a visit to Haz. Umar رضی اللہ عنہ. He welcomed him and treated him withavery special manner. One day when the said Ghassani king was doing the Tawãf of the Kaábah, his cloth was trampled upon by a bedoin of the Banu Fazara clan. The king Jabillah slapped him. The Bedoin lodged a complaint with the Amirul Muminin

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[1] Al-Sunanul Kubra 10/136, Kanzul Ummal 5/595 No. 14058

Umar رضی اللہ عنہ against Jabillah. The Amirul Muminin summoned the king and said to him in all earnestness to please the wronged bedoin, 'or else he would subject you to the same kind of slapping. It was too much for the conceited Jabillah. "Do you not differentiate between a prestigious king and a worthless, mean man," he asked Umar. "No, we do not do, Islam has equated the prestigious and the mean Muslims, and placed both the high and low men in the same line", answered Haz. Umar رضی اللہ عنہ 'Then I will turn back to Christianity, my old creed, reacted the conceited king. "Then you shall be subjected to the capital punishment for apostasy warned him Haz. Umar رضی اللہ عنہ . Feeling the determination and unwavering courage of the Caliph to execute his decision, the Ghassani king asked respite for a night to deliberate what do. He, with his people, stealthily fled away and reached Constantine, where the Roman emperor, Hercules, was staying afraid of the advancing Muslim forces.[1]

With a note of objection Haz. Amr b. al-Ass رضی اللہ عنہ, the Governor of Egypt under Amirul Muminin Umar رضی اللہ عنہ, (who was not very much pleased with the Amirul Muminin Umar's unbiased justice, and his treating the noble and the abject, the administrative and the executive personnel and the common people with complete equality before the law), once said to Haz. Umar رضی اللہ عنہ "Amirul Muminin, suppose a governor of a place meted out a

1 Lan Talqa Mithl Umar 3/297

punishment to a person without the dictate of justice shall you subject such a governor to the law of equality by punishing him in the manner?

"Certainly, by the Being in Whose Hand is my life, I shall bring him to justice, and such an errant governor shall invariably be subjected to the law of *qisás* and equality. For I have seen the Messenger of Allah making himself available for the people in order to facilitate them subject him to the law of equality and *qisás*.[1]

The Charter of the United Nations Organization too recognizes this right. The Articles 8, 9, 10, and 11 are about the same important right. But, unfortunately, all the four Articles of the U.N Charter are nowhere in comparison with the Islamic high concept of justice in so far as the comprehensiveness and meaningfulness is concerned.

Article 8.

Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law.

Article9.

No one shall be subjected to arbitrary arrest, detention or exile.

[1] Imam Abu Yusuf: al-Kharaj: Shibli Nomani: al-Farooq

Article 10.

Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.

Article 11.

(1) Everyone charged with a penal offence has the right to be presumed innocent until proved guilty according to law in a public trial at which he has had all the guarantees necessary for his defence.

(2) No one shall be held guilty of any penal offence on account of any act or omission which did not constitute a penal offence under national or international law, at the time when it was committed. Nor shall a heavier penalty be imposed than the one that was applicable at the time the penal offence was committed.

Right to Receive a Fair Treatment

According to the law of Islam everyone living within the borders of the State of Islam is entitled to receive a fair and equitable treatment. Neither the fellow citizens nor the authorities are permitted to target any citizen of the State to partiality under the feelings of hatred or a base motive. Even the most hateful enemy can not be denied justice and an equitable treatment. Warning the People of Faith against committing injustice even towards the most hateful enemy, the Qurán clearly says:

ال يجر ش آ ة كـ ى أ الركـذ ا اكـذ أ أهشة
زو ، أو الله اهللجخشرشماركـم .

> …….And let not the hatred of a people to you make you swerve to wrong and depart from justice. Be just: that is nearest to piety: and fear Allah. For Allah is well-acquainted with all that you do.[1]

In no case the Muslims are permitted to treat the friends with justice and deny the same to the foes. Justice is an absolute principle which under any set of circumstances can not be violated. A very salient feature of the Islamic constitution is that no article, in the whole legal and constitutional structure of Islam has been kept limited to only an abstract one, without its practical examples. The Prophet صلى الله عليه وسلم and his immediate followers applied all the laws of Islam to the actual situations of their individual and collective life.

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[1] Al-Qurãn: 5: 8

Haz. Abu Hurairah reported that once a person come to the Holy Prophet صلی اللہ علیہ وسلم and demanded the repayment of his loan in an extremely rude manner. It angered the Companions and they stood up to beat the person. But the Prophet صلی اللہ علیہ وسلم cooled their anger and said: "Let him say whatever he says. The man of right has a right to say."[1]

Haz. Ali رضی اللہ عنہ, the Commander of the Faithful of the time, lost his armour. Later, he happened to see a Jew who was selling out the same armour in the market. The Amirul Muminin Ali claimed that the armour was his. The Jew, however, denied the claim of Ali. The dispute was taken to the court of justice of Qadhi Shuraih. The Qadhi asked the claimant to produce the witnesses before the court. But the Amirul Muminin Ali failed to do so. The dissatisfied court decided the matter in favour of the Jew. Having lost the case in the court of law, the observation of Ali the Amirul Muminin was, "You decided the dispute according to the spirit of justice. And I'm quite satisfied. Having heard the decision the observation of the Jew was: This is the justice of the Prophetic standards. The chief authority of the State had to present himself before the court and hear the court's verdict against him. The armour really belonged to the Amirul Muminin. It fell down from his camel and I took it."[2]

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[1] Bukhari, Chap. Istiqrazul Ibl 1/321
[2] Tareekh Dimashq: Ibn Asakir 6: 306

Is there any State or nation of the world which could produce the examples of such equitable behaviour from the history of its juridical behaviour?

Right to Seek legal Remedies in the Event of Wrong and Oppression

Like all other juridical rights, the right to seek legal remedies in the event of one's being subjected to wrong and oppression has also been duly recognized by the law of Islam. The Qurãn says:

لا يحب الله ﮭﮮ ثب غ ء ا او الا ظ، ب الله عمكب
كءِب.

> "Allah loves not that evil should be noised abroad in public speech, except that one has been subjected to injustice, and Allah is All-Hearing. All-Knowing." (4: 148)

This verse, among other things, speaks of the fact that the wronged and oppressed person is permitted to speak out the evil words. Otherwise, Allah Taála does not love the evil words to be spoken out. Only the wronged is permitted to raise his voice against the wrong-doer. The Holy Prophet صلی الله كۓ ع is reported to have said:

أك ع اُجبد هب مة حن ك نطعٍ جبئش.

> "The most excellent form of jihad is to utter the word of truth before an oppressor and tyrannical man at the helm."[1]

The Prophet صلی الله كۓ ع is also reported to have said:

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[1] Mishkat on al-Mirqat 7: 322

أَضُشْ أَخِى ظبُب أ ُ َظِ َبٌّكيكِ ِسج َيسع ً ٍ الله أَضُشْ َ
َظِ َبٌّك ٗ ق أَضُشْ َظبُب؟كيكِ ٍ:رمكّ ٌ ٍ أَظِ ْكز أَيُصشى إيا َ.

“Help your brother whether he is a wrong-doer or the wronged.” A person said to him: O the Messenger of Allah, I may help my brother if he is being subjected to wrong and injustice, but how to help him if he is committing wrong?” “Hold him back from the wrong-doing. This is your help towards him.”[1]

The war ended in the victory of the Muslims. With the bodies of the warriors meeting their death in the battle field, and their numberless chopped limbs spread here and there over the war field presented a dreadful phenomenon. The *mujahidin* collected the *ghanimah*. From among those *mujahidin* who received deep injuries from the enemy there was a jockey round whose revolves the present tale. The commander, Haz. Abu Musa al-Ashári سضی اللہ ٌ ٌ, granted him from the *ghanimah* but less than his due share. He refused to accept less than his share and strongly demanded the commander his due share. He refused to leave even the least amount out of his due share. Annoyed at the *mujahid's* persistence, Abu Musa سضی اللہ ٌ ٌ flogged him with twenty stripes and shaved his head. The mujahid collected his hair, placed them in a purse and left to Madinah to report the wrong of his commander to the Amirul Muminin Umar سضی اللہ ٌ ٌ . Having got to Madinah Munawwarah, the affected *mujahid* threw the purse of

[1] Mishkat with Mirqat 9: 215

his hair at the chest of the Amirul Muminin رضی اللہ عنہ 'What is this?' asked him the Amirul Muminin رضی اللہ عنہ He told the whole tale to him. The tale angered the Amirul Muminin in the extreme. He immediately issued a letter with stern warning to Abu Musa al-Ashári. Therein he wrotes:

> The person so-and-so has told me that you have subjected him to such and such wrong. I place you under oath and ask you to surrender yourself to the wronged so that he is able to take revenge from you. Sit in public if he was wronged by you in public. If it did not take place in public, let him take revenge from you in privacy.[1]

Then Haz. Umar observed: By Allah! If all the people possess the courage like this person, it is more loving for me than all what Allah has granted us as *ghanima.*[2]

During their ages all the Caliphs repeatedly proclaimed this right of the people. Once Haz. Abu Bakr, the First Caliph of the Prophet صلی اللہ علیہ وسلم addressed the people and urged them to lend their help to him as long as he was right, and straighten him in the event of his deviation from the right path.

Treading the tradition of his predecessor, Umar al-Farooq, the Second Caliph in the order of the Rightly-guided Caliphate, with a view to assess the

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1 Kanzul Ummal 15/79 No. 40180

2 Seerah Umar b. al-KHattab. Tantavi P. 184

Ummah's acute sense of criticism and censorship, once asked the gathering before him: "What will you do in case I intentionally depart from the straight path? Bashar b. Saád stood up immediately, unsheathed his sword and said to him: "We will behead you." Umar the Amirul Muminin scolded him saying: "You dare utter such words about me?" Bashar b. Saád replied: "Yes, of course, I spoke these words of you?" His courageous reply gladdened the Caliph beyond measure, and he welcomed him in the following historic words: "Praise to Allah. My people have such courageous souls as are able to straighten me in case I ever deviate from the right way."[1]

Furthermore, Islam not just has granted the right to protest against injustice and wrong, but also recognizes the right to disobey the wrong-doing authorities if they refuse to take notice of the protests, even such authorities be dislodged from their positions. For justice and righteous conduct constitutes a very basic condition for the office of the *amir*. The Qurán says:

ۡرلتلوَ لِیثش ا ٤ٓ سڽ ٚ ثُ ٚ مِاتلکوؤرم ہٖب ٍ ا ٚى جاعلك ِ ٌّب ط

ابَ بً،ہب ٍ ۡ ٓ رسزی،ہب ٍ لا یبّ ِکَ ذ ٍ اُظِ ُمٔ ۙ

"And recall when Abraham's Lord put him to test in certain commands, which he fulfilled. (Allah) then said: I'm to make you the Imam of the people." (Abraham) pleaded, "From my

[1] Al-Faruq 511

progeny as well?" He said: My promise is not about the wrong-doers."[1]

To cut the long story short, Islam bestows upon every human being his natural human rights in the perfect form, aside from that one belongs to the majority group or to a minority one, and whether he/she is living inside the territorial boundaries of the State of Islam or in the State of the un-Islam. Due to the existence of the bond of humanity shared equally by all members of the human society, all human beings are entitled to receive a fair treatment on an equal footing. Besides, the Islamic law has incorporated the unfailing safeguards to ensure those rights against violations.

Right to Disclaim the Accountability of the Crimes and Guilts Committed by Others

In no case the law of Islam holds any person responsible for the misdeeds and crimes committed by others even if there exists the closest kinship between one and the wrong-doer. Every citizen of the Islamic State has the right to disclaim the accountability of the crimes done by others. There is no room in the Islamic law to call any other person to account for the crimes and wrong-doings not committed by him. Establishing this principle, the Qurãn says:

[1] 11: 124

> And Every soul draws the meeds of its acts on none but itself: and no bearer of burden will bear the burden of another.[1]
>
> لاعدوان الا عِی اُظالمین.
>
> The hostility is only against the wrong-doers.[2]

The Islamic historical literature has enshrined may anecdotes of the application of this important legal principle which show beyond doubt that this principle always remained in practice and was not violated even by such Muslim rulers who earned a bad name for themselves as tyrannical. The following anecdote offers an example of the sensitivity of Hajjaj b. Yusuf, a legendary tyrannical and ruthless governor under Ummayyads in the first century of Hijrah.

Hajjaj b. Yusuf arrested a person named Qatri bin Fijaáh and expressed his determination to put him to death. "But why," asked him the latter. "It is because of that your brother has invaded me." Upon this Qatri said, 'I have a letter from the Amirul Muminin which says that he should not be held responsible for the sin of his brother." Produce that letter," Hajjaj asked him. "Indeed I have a letter which has to be obeyed even with more whemence without reluctance. Allah *Taála* says:

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[1] Al-Qurãn: 6, 164

[2] Al-Qurãn: 11, 193

“And no bearer of burden can bear the burden of another.

Hajjaj admired Qutri’s apt reply and freed him happily.[1]

The United Nations’ Charter is wanting in this respect.

Right to Abstain from Sins and Crimes

Every citizen of the Islamic State enjoys the right to keep himself away from sinful and criminal activities. No citizen of the State could be forced into doing an act which constitutes a sin according to his/her belief. Even the Chief of the State has no such a right against any citizen of the State. Islam has a well- defined framework for the obedience of the authorities. The Qurãn unambiguously puts it in the following eternal words:

ال رطیعٓوا أمش المسرفين)الشعراء(

And follow not the command of those who are transgressors.[2]

The Prphet صلی اللہ علیہ وسلم is reported to have said:

لاطاعة لمخلوق فی معصیة الخالق .

“No creature deserves obedience if it involves the disobedience towards Allah the Great.”[1]

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[1] Sirajul Mulk Tartusi, E d. Egypt P, 69 with reference to Bunyadi Huquq

[2] 26 : 151

Another *hadhith* in the same meaning:

ٍأش ً ْ َ ً .ثڃصع كال عمغ ٌلانطكَخ

"If anybody commands you to do an act of disobedience to Allah, no question of hearing and obedience." (indeed such commands deserve an outright rejection.) Adbullah b. Umar reported the Holy Prophet ظلى الله كَۓ ً ع ْ ِ to have said: "Muslims are bound, by the law of Islam, to hear and obey their authorities even though their command involves not personal will as long as the command is free from the disobedience to Allah. If the command involves the disobedience to Allah, there is no question at all of hearing to and obeying such a command."[2]

Right to refuse to Obey the Wrong-doer

This article in fact is complementary to the foregoing one. To explain, if an authority, political or otherwise, asked his subordinates to do an unlawful act, the latter has the right to refuse his order. The latter's so doing not just will constitute no wrong at all. Such a righteous person deserves encouragement and applauding, and in case of his feeling insecure, he must be provided full legal protection. The Holy Book of Allah commands the people of Faith:

أجْڃِ ًأطِئ ڎ) ڎٔ َ(

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[1] Musnad Ahmad, Had. No. 1095 on the authority of Ali b. Abu Talib, and Hadith No. 3889 on the authority of Abudullah b. Masud ً ڭلاه

[2] Mishkat: 319, Chap. Imarah

"And keep yourself away from Evil."

As it has already been put, the brighter practical examples left by the *Khulafai Rashidin* in respect of the peoples' human rights are, no doubt, the landmark rulings to let the people enjoy their human rights in a free atmosphere. After assuming the office of the Caliphate, Abu Bakr al-Siddique delivered his first ever address, in which, among other things, he said: "Obey me as long as I remain obedient to Allah and His Prophet صلى الله عليه وسلم. But in case you see me indulging in acts of disobedience to Allah and His Prophet صلى الله عليه وسلم, you owe me no obedience."[1]

Haz. Ali, the Fourth Caliph in the order of the Khilafate Rashida, is reported to have addressed the People once in which he said:

> "You are obliged by law to obey me as long as I ask you what is in accordance with the law of Allah even if it is not pleasing to you. But if I command you in defiance to the commands of Allah, there will be no question of obedience. For obedience is only in right things, obedience is only in right things."[2]

The Charter of the United Nations Organization has no article in this regard.

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[1] Muhammad Hussain Haikal: Seerat Abu Bakr P. 86

[2] Kanzul Ummal 5/2587

Protection to the Disabled and the Weak

The law of Islam provides full protection to the weaker sections of the human society-the orphans, the sick, the disabled and the physically challenged people. Generally, such things are regarded the moral rights rather than the legal ones. But they are the common human rights which every human being must get as such. Perhaps no law and the charter of human rights has a separate article to express the rights of the weaker sections of the human society. The Islamic law, contrariwise, expresses very clearly the rights of this wretched class. Expressing the rights of this class, the poor and the wayfarer, the Qurãn says”

كآدر القربى حو ۨ أمُسكين ۨاثِ اُغجٓ ،َر أيخ٤ش ُزين يريذ ۨ ۨ
ۨج ۨالله، أَئي ۨ اُلى ِذ ۨ.ٍ

> “So give what is due to kindred, the needy, and the wayfarer. That is best for those who seek the countenance of Allah, and it is they who are to prosper.”[1]

Denouncing those who drive out the orphans and do not like to feed the indigent the Qurãn says:

أسأيت ا ُز ِ ذِة ثب ُدين لئز أي ا ُز ِ يدع اُلز٤ ۨ، ال يحـ ط كَـ ِى
كِغب ۨ اُمسكين0

> “See you one who denies the (advent of the Day of) Judgment.

[1] Al-Qurãn:30: 38

That person is he who repulses the orphan (with harshness), and encourages not the feeding of the indigent."[1]

In the *hadith* literature there exists sizable number of *hadiths* as are a meant to furnish appropriate directions in this respect. To quote here only a few:

> خِنُ كَ٤ب ٍ الله كؤدت اُ خِن اُى الله َ أ دغ اُى عيا ُ .
>
> "All the creatures are the family of Allah. The most loving to Allah, therefore, is he who maintains a good behaviour towards His family."[2]
>
> َ أقس َ ِ .لَبً زًت الله صُضًب ُعجة٤ َ لشح، ُ ادنحك٤ب
> الح أش َ ً ِ صلزّب ُعجب ٍ دسجبد يِ اوُ٤مخ.
>
> The person who helped the wronged Allah writes for him seventy three *maghfirahs* (forgiveness). Out of them a single *maghfirah* will be enough to set all his things right. The rest seventy two *maghfirahs* are to highten his grade on the Day of Judgment."[3]

Regarding the neighbors the Prophet has particularly said:

> لايؤ َ أدذ ً ْ ٌوى يأ َ بجسث ظُؤ ْ.

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[1] Al-Qurãn : 107: 1,2,3

[2] Baihaqi, Mishkat 425: Chap. Al-Shafqah wal-Rahmat al-al-Khalq

[3] Op. Cit, 425

Nobody out of you could be of theperfect belief unless his neighbor is in peace from his high-handedness."[1]

ٔ ظ اُمـ ً ٍ الذي ڤِرح غـِنُجسَجبـئِغ إلى جذّ ۔ً

"The person can not be a *mumin* (True Believer) who himself eats up to his heart's content, while his neighbor is hungry by his side.[2]

About the orphans the Prophet صلى الله ڪٔـٍ ً ُع ِ said:

َ ٍآ ْ ٍ ڔٔبٍ اُی ڲب ََ ٌشڕٹ ًأ ُجت الله ُ ًاُجخ اڄِ ً، الا أ ٍ ڪٍمـ َرڄً لا ڽلڨ.

"He who provided refuge to an orphan, shared him in one's food and drink, Allah *taála* shall make him entitled to paradise, except that he thereafter committed an unpardonable sin."[3]

The Prophet ْ ع ُ ً صلى الله ڪٔـٍhas also said:

خ٘ڜٺ٘ذ ڪی اُمسلمیڽ٘ذ ڪ٘ ًڔٔ ْ ی ذغٍ أ٘ ً، ٌشڜٺ٘ذ ڪی اُمغِمٔ ٍبٔ نڪٔ ًڔٔ ْ ڽغِء ا٘ ً.

"The best house of Muslims is the one where exists an orphan who is accorded a good behaviour. The evil house of Muslims, contrariwise, being the one where exists an orphan who is accorded a bad treatment."[4]

The following is a general proclamation of the Prophet ْ ع ُ ً صلى الله ڪٔـٍin this respect:

لايرحـ ْ الله ََ ال یر حـ ْ اٌب ط.

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[1] Loc. cit

[2] Op. cit

[3] Sharh al-Sunnah, Mishkat 423

[4] Ibn Majah, Mishkat 423

"Allah *taála* treats not with His mercy those people who are not merciful towards other people.[1]

Woman's Right to Guard her Honor and Chastity

That the chastity of woman is always honorable and the women are invariably entitled to protect their chastity is a very fundamental human right which the Qurãn and the Sunnah establish beyond dispute. In this respect Islam gives a very detailed and minute directions. The gist of all such teachings and directions is that the woman's chastity must be respected at every cost. Even during the course of the actual war no Muslim soldier is permitted to lay his hand upon the women belonging to the enemy camp. Extramarital and illicit sex is always forbidden, irrespective of that to which group or nation the woman belongs. The woman as such is entitled to guard her chastity by applying all what at her disposal. The Holy Prophet صلی اللہ علیہ وسلم has said:

[illegible]

"The person killed while defending his/her honor and chastity shall be regarded a martyred."

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[1] Bukhari & Muslim, Mishkat : 421

Right to Receive Help from Others for a Virtuous Purpose

To the Islamic law, every person engaged in an act of goodness has a full right to receive every sort of help from other people, apart from the fact to which country, nation or religion such a person belongs. On the other hand, the person committing the deeds of evil and mischief never deserves to be helped in such acts. The feelings of virtue and goodness deserve human sympathy; and on the grounds of humanity the doer of good is entitled to receive every encouragement and sort of possible help. This important principle has been laid down in the Qurãn in the following beautiful phraseology:

ڑ ب ٱ ٹ ی ڄش ٱ ڙو ، ال ڍ ب ٱ ٹ للِل ٱ ڇ ذ ٱ،

> "Help you one another in righteousness and piety, and help you not one another in sin and rancour."[1]

Besides meaning righteousness, as in the verse just quoted, the word *birr* is also employed in the Arabic language to mean the facilitation of the due rights of others. Based on this, if a person is endeavoring for the sake of the rights of other people, such a person is also entitled to receive all sorts of human sympathy, help and encouragement. For the practical illustration of both the meanings of the word *birr,* the accord of Hilful Fuzul deserves mention.

The Quraysh came to agree upon one of the noblest covenants in which the Apostle played a

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[1] Al-Qurãn, 5: 2

prominent part. It so happened that a man from Zabid came to sell his merchandise in Makka. One of the chieftains of the Quraysh, al-'As b. Wãyel, purchased the whole of it but paid nothing in return. Zabidi approached several influential with Al-'As b. Wãyel. Now, Zabidi called upon the people of Mecca exhrting every bold and fair-minded younman to come to his rescue. At last, many if them, put to shame, assembled in the house of 'Abdullah b. Jadãn who entertained the people coming to his house. Thereafter, they formed a compact, in the name of Allah, for repression of the acts of lawlessness and restoration of justice to the weak and the oppressed within the walls of Mecca. The covenant was called *'Hilful Fudul'*. The parties to compact approached Al-'As b. Wãyel and forced him to return the merchandise of Zabidi.

The Apostle had been one of the prominent movers of the compact and he often would express his satisfaction on the execution of this agreement. Once he remarked: "I had had hand in making such a compact in the house of 'Abdulllah b. Jadãn to which if I were invited to have a hand in even after the advent of Islam, I would have undoubtedly joined again. They had agreed to restore to everyone that which was his due and to protect the weak from the highhandedness of the oppressors."[1]

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[1] Ibn Kathir: al-Seeratun-Nabavia, Nabie-Rahmat P. 112 M. Abul Hasan Ali Nadwi

The Universal Declaration has no article in this regard.

Prophet's Address of Hajjatul Wada

Whatever has been written in the foregoing pages is in fact was an explanation of the magnificent Islamic Charter which offered a perfect draft of the human rights and ensured their protection. That is the Address of the Holy Prophet صلی اللہ علیہ وسلم *which he delivered before the largest number of the Believing people in the course of his Last Hajj, in the tenth year of the Hijrah calendar.*

Addressing the gathering at Arafat the Prophet said: 'All praise is for Allah. We praise Him and seek His help and ask Him for forgiveness of our sins and express our repentance before Him. We seek protection against mischiefs of our hearts and our evil lead him astray and whomsoever Allah does not give guidance no one can guide him aright.

"And I declare this truth that there is no Allah except Allah and I declare this truth Muhammad is His Apostle.

"O servants of Allah! I advise you to worship Him and I persuade you to do so.

"I begin with these sacred words.

"After this, I tell you, O people! Listen to me carefully as I speak clearly, for I do not think I will have the opportunity to meet you here after this year.

"O people! Your blood and your property have been sanctified to one another till you are presented to your Lord, just as this month, year, this day in this city are sanctified.

"Beware that I have conveyed the word to you. O Allah! Be our witness!

"So whosoever has anything in trust should return it to its owner.

"Amounts of interest of the days of ignorance are remitted and first of all I remit the claims of interest of my uncle Abbas bin Abdul Muttalib.

"All claims of blood of the days of ignorance are cancelled and first of all I cancel the blood demand of Rabia bin Haris bin Abdul Muttalib. All titles and offices of the days of ignorance are abolished with exception of *Sadana* (caretaking of the kaãba) and *Saqaya* (providing drinking water for Haj pilgrims).

"Deliberate murder shall be avenged For the death caused unintentionally by club or stone the compensation fixed is a hundred camels. Anyone increasing it will be considered as belonging to the days of ignorance.

"O people! After the establishment of the order of truth devil has lost hope that he will be worshiped in this land. But he will be pleased if he is obeyed through such other sins which you consider light.

"O people! The change of months (i.e. sanctified months) is an addition to the ways of apostasy and through it the idolaters fall into further wrong path that a month made permissible one year and prohibited next year so that by manipulation they substitute the number of the months prohibited by Allah.

"Surely, the world has today returned to the time when Allah created the earth and the heaven.

Before Allah the number of months is definitely twelve and when Allah created heaven and earth this number was entered into His Book (the charter of destiny) and is still there. Of those four months are sanctified three continuous, viz, Zulqada, Zilhijja and Moharram and one separate, i.e. Rajab, which is between Jumada II and Shaában.

"Beware that I have conveyed the word. O Allah! Be You the Witness.

"O People! Your women have been some rights in respect of you and you have been given some rights in respect of them. It is incumbent on them to let any one enter into your house whose entry is not liked by you. And they should not commit any adultery. If they commit it Allah has permitted you to part with them, keep them of your sleeping chambers and given them such bodily punishment which does not leave a mark on the body. If they desist and obey their maintenance is your responsibility.

Surely, woman are subject to you and cannot act of their won accord You have taken them as your companions as a trust from Allah and have made use of women an train them in the right manner.

"Beware that I have conveyed the word. O Allah! Be You the Witness.

"O people! Men of the faith are brothers to one another and so to take the property of a brother wiYout his permission is prohibited.

"Those who are present here should convey these things to those who are absent. Possibly those

who are absent may remember and observe these things more carefully than those present.

"O people! Allah has assigned a specific share of inheritance to each heir. To will more than one-third of one's property is not permitted.

"The child belongs to one on whose bed (in marriage) it is born and the adulterer shall be stoned.

"Whosoever calls someone else his father besides his real one and the slave who calls someone else his master besides his real one, will meet the curse of Allah and angels and all men and no amends will be accepted from him on the Day of Judgement.

"Allah's protection and blessings descend on you!"

Addressing the gathering at Mina, the Prophet said: "O people! No Prophet is to come after me and no community will be raised after you. So listen carefully and devote yourself in submission to Allah, offer prayers five times daily, perform pilgrimage of your Lord's Sacred Mosque and carry out the orders of your chiefs and rulers that you may find a place in Paradise."

"Beware that I have conveyed the word. O Allah! Be You the Witness.

"So do not, after me, go back to the ways of idolatry and slay not each other.

"I am leaving with you a thing that as long as you follow it, you will never go astray, and that is the Book of Allah.

"Beware that I have conveyed the word. O Allah! Be You the Witness.

"O people! You Allah is one, and your ancestor is also one. You are all the progeny of Adam who was created from earth. The most respected before Allah amongst you is one who is most Allah-fearing. No Arab has preference over a non-Arab or a non-Arab over an Arab. Preference, if any, is on the basis of the fear of Allah.

"Beware that I have conveyed the word. O Allah! Be You the Witness.

"And you people will be asked about me. Now tell me what you will say.

"All cried: 'We affirm that you have conveyed the message, carried out the responsibility of instructing people, raised all curtains from the face of truth and faithfully conveyed the trust of Allah.

"O Allah! Be You the witness! O Allah! Be You the Witness! O Allah! Be You the Witness!

Important Note

The text of the Holy Prophet صلی اللہ علیہ وسلم's address as quoted above does not separately exist in any chapter of any book of the *hadith*. as a completely integrated one. The items it mentions are scattered about in different chapters and sections of the *hadith* literature. In the Sahih Bukhari and the Sahih Muslim, this historic address exists in Chapters of Hajjatun-Nabi, and Diyãt. In Abu Dawood it found place in Chapter *al-Ashhurul Hurum wa Hajjatun-Nabi* on the authority of a number of Companions which includes Abdullah b. Abbas, Abdullah b. Umar, Abu Ummama Bahili, Jabir, and Abu Bakr رضی اللہ عنہم أجمعین The

narrations reporting the address while differ in respect of many items, many share the same items. The *maghazi* and *Siyar* literature mentions same items. In fact it was a long address. The narrators narrated only the items which he remembered.

Another point of difference in these narrations is about the date when the address was delivered. According to Abdullah bin Abbas سصی اللگ the address was delivered on the day of *Arafah,* that is the ninth Zul Hajj. But according to the report of Haz. Abu Bakr سضی اللگ and some other narrators the address was delivered in Zul-Hajj 10. There are still narrations according to which it was delivered during the days of Tashrique. In his monumental work on Seerah, Ibn Ishaq has cited the whole address as a continuous one. Ibn Majah, Tirmidhi, and Musnad Ahmad cite only a few sentences of the address with no specification of the date of their delivering.

In short, the combination of all the concerned narrations scattered about in the Six Authentics as well as of the *masanid* suggests that during the Hajj the Messenger of Allah addressed the people three times –ninth Zul Hajj or the day of Arafah, 10 Zul Hajj and the days of Tashriq. All the three addresses have the fundamental legal and moral principles Islam common. Possibly, as some Traditionists have clearly put it, the Holy Prophet صلی اللہ ع repeated some important items. For the gathering before him

was extremely large and the message the Prophet was to communicate to his Ummah was very important.[1]

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[1] Muntaqal Akhbarwith Nailul Awtar with reference to Seeratun Nabi of Allama Shibli Nomani. Vol. 2, P. 154,55

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